

## EXHIBIT 33

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MARYLAND  
SOUTHERN DIVISION

-----+  
SAMUEL CALDERON, \*  
INDIVIDUALLY AND ON \*  
BEHALF OF OTHER SIMILARLY\*  
SITUATED INDIVIDUALS, \* CIVIL ACTION NO.  
Plaintiffs \* 8:10-c-019858 RWT  
v. \*  
GEICO GENERAL INSURANCE \*  
COMPANY, ET AL., \*  
Defendants \*

-----+  
Corporate Deposition of GEICO GENERAL INSURANCE  
COMPANY, GEICO CORPORATION, GEICO INDEMNITY COMPANY,  
and GEICO CASUALTY COMPANY, by and through their  
corporate designee,

STEVEN F. RUTZEBECK  
Baltimore, Maryland

Friday, November 19, 2010

9:26 a.m.

Job No.: 1-189163

Pages 1 - 121

Reported by: Linda H. Cole

STEVEN F. RUTZEBECK 11/19/2010

Page 2

1           Corporate Deposition of GEICO GENERAL INSURANCE  
2 COMPANY, GEICO CORPORATION, GEICO INDEMNITY COMPANY,  
3 and GEICO CASUALTY COMPANY, by and through their  
4 corporate designee, STEVEN F. RUTZEBECK, held at the  
5 offices of:

6

7

8           SHAWE & ROSENTHAL, L.L.P.

9           20 South Charles Street, 11th Floor

10          Baltimore, Maryland 21201

11          (410) 752-1040

12

13

14          Pursuant to agreement, before Linda H. Cole,  
15 Notary Public of the State of Maryland.

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STEVEN F. RUTZEBECK 11/19/2010

Page 3

1 A P P E A R A N C E S

2 ON BEHALF OF PLAINTIFFS:

3 MATTHEW H. MORGAN, ESQUIRE

4 NICHOLS KASTER, P.L.L.P.

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7 Minneapolis, Minnesota 55402

8 (612) 256-3200

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10 ON BEHALF OF DEFENDANTS:

11 ERIC HEMMENDINGER, ESQUIRE

12 SHAWE & ROSENTHAL, L.L.P.

13 20 South Charles Street, 11th Floor

14 Baltimore, Maryland 21201

15 (410) 752-1040

16

17 ALSO PRESENT: William Robinson

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1	C O N T E N T S	
2	EXAMINATION OF STEVEN F. RUTZEBECK	PAGE
3	By Mr. Morgan	5
4		
5		
6		
7		
8		
9		
10		
11	E X H I B I T S	
12	(Exhibits attached.)	
13	RUTZEBECK DEPOSITION	PAGE
14	Exhibit 1            Amended Notice of Taking	
15	Deposition	5
16	Exhibit 2            Affidavit of Steven Rutzebeck	5
17	Exhibit 3            SIU Case Management System (SICM)	
18	User's Manual	106
19	Exhibit 4            Memorandum	109
20		
21		
22		
23		
24		
25		

1 P R O C E E D I N G S

2 STEVEN F. RUTZEBECK

3 having been duly sworn, testified as follows.

4 (Exhibits 1 and 2 were premarked for  
5 identification and were attached to the transcript.)

6 EXAMINATION BY COUNSEL FOR PLAINTIFFS

7 BY MR. MORGAN:

8 Q Good morning.

9 A Good morning.

10 Q Would you introduce yourself and please  
11 spell your last name for the record?

12 A Steven Rutzebeck, R-U-T-Z-E-B-E-C-K.

13 Q Mr. Rutzebeck, my name is Matt Morgan. I  
14 introduced myself and we chatted a little bit this  
15 morning before we went on the record. I'm one of the  
16 lawyers that represents the plaintiffs in a collective  
17 action that's been brought against GEICO. Do you  
18 understand that?

19 A Yes, sir.

20 Q Have you ever been deposed?

21 A No, I haven't. I've testified, but never  
22 deposed.

23 Q All right. When you say you've testified,  
24 you mean in a courtroom?

25 A That's correct.

STEVEN F. RUTZEBECK 11/19/2010

Page 6

1 Q It's sort of like that, the statement under  
2 oath, and I'm going to be asking you a series of  
3 questions. I would appreciate you responding to those  
4 questions as accurately and truthfully as you can;  
5 okay?

6 A Okay.

7 Q I'm confident your counsel has gone over the  
8 sort of ground rules that govern these proceedings, so  
9 I'm not going to belabor the points. What I would say  
10 is that it's important that you understand my  
11 questions.

12 On occasion I ask awkwardly phrased  
13 questions or questions that witnesses may not  
14 understand. I'm not trying to trick or confuse you;  
15 but if you don't understand the question, please tell  
16 me and I will respond; okay?

17 A Yes, sir.

18 Q Otherwise, if you do respond, I'll assume  
19 that you understood the question; fair?

20 A Fair.

21 Q As I told you off the record, I'm hopeful  
22 this deposition will last only the morning and not go  
23 too far into the afternoon, if at all. If, however,  
24 you need any breaks during the deposition, just speak  
25 up and let me know, and I'm happy to accommodate that.

STEVEN F. RUTZEBECK 11/19/2010

Page 7

1       The only caveat to that is if a question is pending,  
2       I'd like an answer from you before we take that break.

3           A      No problem.

4           Q      Is that fair?

5           A      Yes, sir.

6           Q      You understand that you've been identified  
7       as what's called a Rule 30(b)(6) witness?

8           A      Yes, sir.

9           Q      This is Deposition Exhibit 1. It's an  
10       amended notice of taking deposition pursuant to  
11       Federal Rule of Civil Procedure 30(b)(6). Have you  
12       seen this document, sir?

13          A      No, I haven't.

14          Q      I will represent to you that my office  
15       drafted this and sent it over to Mr. Hemmendinger's  
16       office. You'll see that the document has a number of  
17       pages and a number of items.

18          A      I may have seen it. I apologize. I may  
19       have seen it.

20                 THE WITNESS: Is this the one you provided?

21                 MR. HEMMENDINGER: We did review this  
22       document.

23          A      Yeah, I apologize. After looking through  
24       it.

25       BY MR. MORGAN:

STEVEN F. RUTZEBECK 11/19/2010

1 Q That's okay. I appreciate that. If during  
2 the deposition I ask you a question and you don't  
3 remember something, but then 20 minutes later --

4 A No. I looked at the first page, and it  
5 didn't register. After looking at it, yes, I have  
6 seen this.

7 Q Okay. But my point is, though, if something  
8 pops into your head after the fact -- if I ask you  
9 something and you don't remember it, but 20 minutes  
10 later you bring it up, please bring it to my  
11 attention; okay?

12 So as I understand it, you've been  
13 identified to talk about a number of the topics in  
14 this notice. Is that your understanding as well?

15 A That is my understanding, yes.

16 Q And, specifically, you've been produced to  
17 talk about Item No. 1?

18 A Yes.

19 Q Item No. 3?

20 A Yes.

21 Q Item No. 4?

22 A Yes.

23 Q Item No. 5?

24 A Yes.

25 Q Item No. 6?

1 A Yes.

2 Q Item No. 8?

3 A Yes.

4 Q Item No. 12?

5 A Yes.

6 Q Item No. 20?

7 A Yes.

8 Q 21?

9 A Yes.

10 Q 22?

11 A Yes.

12 Q And 23?

13 A Yes.

14 Q All right. And you're able to testify today

15 about all of those items?

16 A I believe so, yes.

17 Q Great. So you have been the director of the

18 security special -- claims security/special

19 investigations unit?

20 A It's actually two titles. It's claims

21 security -- director of claims security and, slash,

22 special investigations unit.

23 Q So there are two titles you hold?

24 A Yes. It's the same job, but it's

25 basically -- they describe it two different ways.

1 Q And do you have some understanding why it's  
2 described two different ways?

3 A Actually, when I came there, that was the  
4 way it was, when I assumed the position, and that's  
5 the way it's been maintained.

6 Q You understand that this lawsuit has been  
7 brought on behalf of what I understand to be security  
8 investigators for GEICO?

9 A Our -- yes -- our SIU investigators.

10 Q Those are your SIU investigators; right?

11 A Yes.

12 Q Is there some other type of investigator  
13 position over which you have supervision?

14 A No.

15 Q So the security investigators that we're  
16 talking about in this lawsuit is the job over which  
17 you have supervision?

18 A Not exactly. The position that I currently  
19 maintain is a decentralized-type position. I do not  
20 have direct supervision of the investigators in the  
21 particular regions or their supervisors or managers.

22 Q Direct supervision meaning what?

23 A That I don't do their PAs. I don't hire and  
24 fire them. That's done at the regional level.

25 Q And what is a PA?

1 A Performance appraisals.

2 Q How often are those done?

3 A Yearly.

4 Q For all special -- if I use the words  
5 special investigator, do you understand that to  
6 mean --

7 A Yes, our SIU investigators.

8 Q So you understand special investigators to  
9 be synonymous with security investigators?

10 A Yes.

11 Q So I may use either term interchangeably and  
12 you'll understand what I'm referring to?

13 A That's right; to our SIU investigators.

14 Q So performance appraisals are conducted for  
15 GEICO's SIU investigators on an annual basis?

16 A That's correct.

17 Q And that's true with regard to all SIU  
18 investigators for the company?

19 A That's correct, sir.

20 Q Are there any other types of performance  
21 evaluations done for the SIU investigators on a formal  
22 basis other than the PAs you identified?

23 A Not to my knowledge. I mean, they have --  
24 obviously, their performance is maintained or the  
25 level of their performance is maintained throughout

1       the year, but they only have one appraisal that occurs  
2       annually.

3           Q     And could you describe for me what goes into  
4       the performance appraisal?

5           A     Well, we have -- at the present time, we  
6       have a number of different indicators or measures that  
7       we use that we have standardized in SIU. It would be  
8       customer survey results. It would be the number of --  
9       the average number of cases closed in a month, the  
10      average number of law enforcement referrals.

11           It would be behavioral issues, such as their  
12      enthusiasm and training; those types of issues. Their  
13      case life, the average case life. Those types would  
14      be indicators. And the regions can also add  
15      additional performance measures beyond those.

16           Q     But the ones you described are the  
17      indicators you understand go into --

18           A     That is our recommended --

19           Q     Let me -- we have to make sure we're not  
20      talking on top of one another. I know off the record,  
21      in the normal course of dialogue, we anticipate each  
22      other's questions, but it's important so that we get a  
23      clear record that we not jump on top of each other  
24      when we're talking; okay?

25           A     Okay.

1           Q     So the indicators that you just identified  
2     are those that make up the performance appraisal  
3     reviews?

4           A     They are the recommended standard for a  
5     performance appraisal at the present time.

6           Q     You identified the number of cases closed --

7           A     Yes.

8           Q     -- as being one of the indicators; right?

9           A     That's correct. One of the recommended  
10   metrics.

11          Q     And what is the company looking for in terms  
12   of its evaluation? I mean, is it better for an  
13   investigator if he closes more cases as opposed to  
14   less over the course of a year?

15          A     Ideally, you want to be able to close -- the  
16   number of cases you're being assigned are closed at  
17   the -- are being closed at the same rate, so you don't  
18   have a very large -- or standing pending cases.

19          Q     Is there sort of a target number that  
20   GEICO --

21          A     No. We do not have a target. From my  
22   level, we do not provide a number that people are --  
23   that's handled regionally, what they set regionally.

24          Q     How about -- you also identified the average  
25   number of law enforcement referrals.

1 A That's correct. We specifically --

2 MR. HEMMENDINGER: Wait a second. I'm not  
3 sure what the question was.

4 BY MR. MORGAN:

5 Q You identified that as one of the other --

6 A That's correct.

7 THE REPORTER: Off the record.

8 (Discussion off the record.)

9 BY MR. MORGAN:

10 Q Okay. So we have identified the average  
11 number of law enforcement referrals as one of the  
12 recommended items as part of this performance  
13 evaluation?

14 A Right.

15 Q Or appraisal?

16 A That's correct.

17 Q And what is GEICO looking for in terms of a  
18 number of law enforcement referrals? Is it better for  
19 an investigator to have more referrals as opposed to  
20 less?

21 A What we have there is we're looking for the  
22 average; in other words, what would be expected. It's  
23 not a specific number per person. It's more an  
24 average what-would-be-expected in your caseload that  
25 would be the appropriate referral number. So in other

1 words, if your peers are all submitting three to four  
2 law enforcement referrals in regard to their caseload,  
3 you would be looked at to be somewhere in the same  
4 average.

5 It's not exactly a number; so we're not  
6 looking for "this is the number." We're looking for  
7 what is the average that most people would, just by  
8 the normal course of work, be providing a referral to  
9 law enforcement. And law enforcement referrals  
10 include a number of things beyond just law  
11 enforcement.

12 Q What do they include?

13 A Referrals to regulatory boards and referrals  
14 to fraud bureaus that might be in a particular state.

15 Q So the first item on the deposition notice,  
16 Exhibit 1, talks about the organizational structure of  
17 defendants' claims and investigative unit departments.  
18 Do you see that?

19 A Yes, sir.

20 Q So if I'm thinking about sort of the  
21 hierarchy in terms of the SIU, you're at sort of the  
22 top of the pyramid; true?

23 A I am responsible for the corporate direction  
24 of SIU for the performance reviews that are performed  
25 from a corporate focus, for corporate technology

1       that's used to identify -- help us identify insurance  
2       fraud, and I have a quasi-supervisory responsibility  
3       to the individual SIU operations.

4           Q      What do you mean quasi?

5           A      I can meet with the assistant vice  
6        presidents of -- or regional vice presidents that are  
7        ultimately -- that the SIU managers report to. I can  
8        indicate whether their performance -- you know, in  
9        regards to the performance reviews and those types of  
10       things could influence -- regarding whether a  
11       particular operation was performing at an acceptable  
12       level; those kinds of things.

13          Q      So whom do you report to?

14          A      I report to the vice president of claims  
15        home office.

16          Q      Who is that?

17          A      Nancy Pierce, at the present time.

18          Q      Do you have folks within the SIU that  
19        directly report to you?

20          A      Yes. I have six individuals.

21          Q      And do they all hold the same title?

22          A      No, they do not.

23          Q      Okay. Do some of them hold the same title?

24          A      No. None of them hold the same title.

25          Q      Okay. Could you tell me who reports

1 directly to you along with their titles, please?

2 A Michael College.

3 Q Would you spell his last name?

4 A C-O-L-L-E-G-E. He is our SIU operation and  
5 training manager.

6 Q We have Michael Krohn (phonetic), who is our  
7 chief analyst. We have Audra Meyers (phonetic), who  
8 is our CHO analyst. She handles systems, our systems  
9 issues. We have Kendra Sullivan, who is our intake  
10 ICE analyst.

11 THE WITNESS: I-C-E. It's Intelligence  
12 Claims Evaluation. It's an automated fraud detection  
13 system.

14 A We have Anthony Broadnax, who is our  
15 background investigator.

16 BY MR. MORGAN:

17 Q Could you spell his last name?

18 A B-R-O-A-D-N-A-X.

19 And we have Maria Waders (phonetic), who is  
20 our power sports analyst.

21 Q And --

22 A And we have one more. I have Don Marine  
23 (phonetic), who is our SIU performance review officer.

24 Q And these seven people directly report to  
25 you?

1 A That's correct.

2 Q You mentioned something about -- are there  
3 vice presidents of SIU or regional vice presidents?

4 A No. The SIU managers report to a claims  
5 assistant vice president, except in the states of New  
6 York and New Jersey, where by law they need to report  
7 to the regional vice president.

8 Q So the SIU managers report to a claims  
9 assistant vice president?

10 A Except in the states of New York and New  
11 Jersey.

12 Q Where they report to regional vice  
13 presidents?

14 A That's correct. They are regional vice  
15 presidents.

16 Q Of claims?

17 A Of claims, except in the two states.

18 Q Hold on a second. I thought you said the  
19 SIU managers in New York and New Jersey report to --

20 A Report to a regional vice president; that's  
21 correct.

22 Q A regional vice president of claims?

23 A No. Of the entire -- the regional vice  
24 president as the -- they are the head person in a  
25 particular region. So they have not only claims, but

1       they have underwriting and all of the other insurance  
2       activities underneath them.

3           Q     Do the special investigators for GEICO --  
4       are there direct reports to the SIU managers?

5           A     The SIU -- I'm not quite sure I understand  
6       your question.

7           Q     I'm just trying to understand from the  
8       ground up the hierarchy. So at the lowest level is  
9       the investigator; right?

10          A     Yes.

11          Q     What position does the investigator report  
12       to?

13          A     The SIU investigator reports to an SIU  
14       supervisor, and the supervisor reports to an SIU  
15       manager.

16          Q     And then the managers, with the exception of  
17       New York and New Jersey, report to an assistant -- a  
18       claims assistant vice president?

19          A     Yes, sir.

20          Q     And who do the claims assistant vice  
21       presidents report to?

22          A     They report to the regional vice presidents.

23          Q     But the regional vice presidents do not  
24       report to you directly?

25          A     No, they do not.

1 Q Do you have oversight, either direct or  
2 indirect, of the regional vice presidents?

3 A No, I do not.

4 Q How many SIU managers are there?

5 A There are ten, not including Michael  
6 College, who's a manager also.

7 Q Not including, did you say?

8 A There would be 11 including him.

9 Q Okay. Where does Mr. College reside or  
10 where does he work?

11 A At the Plaza location, which is in Chevy  
12 Chase. At our office in Chevy Chase, the claims home  
13 office.

14 Q Are all of the people you identified that  
15 directly report to you -- do they all work out of the  
16 Chevy Chase location?

17 A All except one. One works out of -- Don  
18 Marine works out of our Renton office in Washington,  
19 D.C. -- I'm sorry; in Washington state.

20 Q Is the SIU broken into different regions  
21 or --

22 A Yes. They align with the existing claims  
23 regions.

24 Q How many regions are there?

25 A At the present time, there are eight.

1 Q Could you identify those regions?

2 A Region 1, Fredericksburg; Region 2 is  
3 Woodbury in New York; Region 3 has both the Midwest  
4 and the Southeast and they are located in Macon;  
5 Region 4 has two centers, one in San Diego and one in  
6 Tucson; Region 5 is Dallas; Region 6 is Lakeland,  
7 Florida; Region 7 is in Virginia Beach; and Region 8  
8 is Buffalo, New York.

9 Q Thank you. So the investigators in the SIU  
10 work -- all of them work in one of these eight  
11 regions?

12 A That is correct.

13 Q And all of the investigators report to a  
14 supervisor?

15 A That's correct.

16 Q You mentioned -- I wanted to talk to you a  
17 little bit about some of the folks who report directly  
18 to you. You mentioned Don Marine, the SIU performance  
19 review officer.

20 A Yes.

21 Q Do you have some understanding of what he  
22 does?

23 A Yes.

24 Q What does he do?

25 A His responsibility -- the responsibility we

1 have in my position is to review each and every  
2 operation for certain performance standards, and it's  
3 his responsibility to coordinate the conducting of  
4 those performance reviews or audits.

5 Q How often are the audits -- tell me a little  
6 bit about what the audits are.

7 A We review four files from each investigator  
8 for a number of standards, particularly focusing  
9 primarily on report format. Then we provide those  
10 results to the individual regions. We also look at  
11 their analytical sections, as well as their intake  
12 operation.

13 Q So four files from each investigator; is  
14 that what you said?

15 A That's correct.

16 Q Is that four files per year?

17 A Per year.

18 Q And these are closed file reviews?

19 A Closed file reviews, yes.

20 Q And you said that there's -- let me step  
21 back. Is there some sort of written guideline or  
22 document by which the folks who do the audits  
23 follow --

24 A Yes.

25 Q -- in terms of deciding or evaluating an

1 investigator's performance on a particular closed  
2 file?

3 A We have -- every year we send out -- advise  
4 the regions in regard to what standards will be  
5 measured. Also, all of the measures that we use are  
6 documented either in like our case management's manual  
7 or those types of things.

8 Q So is there a name for those standards that  
9 are sent out each year?

10 A It's our annual performance review  
11 standards. You know, it reviews exactly what we'll be  
12 looking at.

13 Q Right. I'm looking for a name. So if I  
14 asked GEICO for that information, how would I go about  
15 getting it?

16 A It's our performance review standards.

17 Q SIU performance review standards?

18 A Yes.

19 Q And so I understand it and we're clear,  
20 that's the criteria by which the investigator's files  
21 are reviewed on closed review files?

22 A Yes. We let them know exactly what will be  
23 measured.

24 Q So these standards are distributed to even  
25 the investigators on an annual basis so they have some

1 idea?

2 A I provide them to the managers, and I expect  
3 that they are relayed to the supervisors to the  
4 investigators.

5 Q Who creates the standards?

6 A We -- the claims home office/SIU does.

7 Q So when you say the claims home office/SIU,  
8 who is that?

9 A That's me and the seven people that...

10 Q That you identified that report to you?

11 A Yes. Primarily it's Don Marine and Mike  
12 College and myself.

13 Q So Don Marine, Mike College, and you  
14 primarily create the standards?

15 A Yeah. We get feedback from the SIU  
16 managers, but primarily the final decision is ours as  
17 to what we actually review.

18 Q So do the investigators receive a score?

19 A Yes, we do give a score.

20 Q Can you tell me about how the scoring system  
21 works?

22 A You get a 1 to 5 score. A 3 is what would  
23 be expected from an experience SIU investigator for  
24 that particular issue. And then 4 and 5 is where they  
25 have exceeded that standard. A 1 and 2 is where they

1 haven't met that standard.

2 Q So does Mr. Marine have a team of folks that  
3 do the reviews on a regular basis throughout the year?

4 A Yes. We use the SIU supervisors as the  
5 review team. So he identifies the number of reviewers  
6 that he needs, he calibrates them, and then they are  
7 provided with the files electronically that they'll be  
8 reviewing.

9 Q When do the -- you said the standards are  
10 issued on an annual basis?

11 A Yes, sir.

12 Q At what point in the year? I mean, we're  
13 coming up on January 1. Is that the time that new  
14 standards are typically issued?

15 A Yes, sir. They are usually in December or  
16 early January.

17 Q Have you created the ones for 2011?

18 A They are working on them now.

19 Q You identified -- I just wrote last names  
20 here -- Sullivan, intake ICE?

21 A Kendra Sullivan.

22 Q Kendra Sullivan. And then I know you  
23 defined that acronym ICE. Could you do so again,  
24 please?

25 A Yes. It's Intelligence Claims Evaluation.

1 Q What is that?

2 A It's an automated system, a sophisticated  
3 red-flag system, that looks at claims as they are  
4 coming in and identifies which ones have certain  
5 indicators that would indicate that they may possibly  
6 have some fraudulent issues within the claim.

7 Q What happens if the system detects fraud  
8 indicators? What happens with the file?

9 A Well, at the present time it's not working  
10 properly because we had some issues with data  
11 transfer. But ideally what would happen is if a claim  
12 exists with certain incriminating indicators, that  
13 claim would be sent to our case management system in  
14 the queue and an intake operator would look at that.  
15 A human being would look at it and evaluate whether  
16 that actual claim did have some indicators that might  
17 warrant us investigating it.

18 Q So in the ideal world, if ICE is working  
19 correctly, the computer may identify it; and then that  
20 claim is in a system that allows an individual, then,  
21 to review it to confirm that indicators exist and that  
22 the file warrants investigation?

23 A That's correct.

24 Q And what's the title for the employee that  
25 reviews the indicators after the ICE system identifies

1 them?

2 A That's an intake associate.

3 Q Those aren't the investigators?

4 A No, they are not.

5 Q So investigators in the SIU don't decide  
6 whether a claim is going to be investigated?

7 A No, they do not.

8 Q So let's say the intake associate decides  
9 that this is a claim that warrants further  
10 investigation, what happens to the claim?

11 A The claim will then be electronically sent  
12 to a supervisor who has responsibility for the area  
13 where the issue is at hand. The supervisor will then  
14 distribute that case to whoever on his team he thinks  
15 most appropriate. It might be a caseload issue; it  
16 may be expertise. But we leave it up to the  
17 supervisor to determine amongst the resources they  
18 have available as investigators where that case should  
19 go to for investigation.

20 Q When you're referring to a supervisor,  
21 you're talking about an SIU supervisor?

22 A An SIU supervisor.

23 Q So the SIU supervisor decides which  
24 investigator in his or her region is going to  
25 investigate a particular claim?

1 A Correct.

2 Q Now, there's also a claims adjuster for  
3 GEICO that's assigned to those claims; true?

4 A Yes.

5 Q Does the claims adjuster have any  
6 decision-making responsibility relative to whether or  
7 not a claim is investigated by a special investigator?

8 A They can, because they have the ability to  
9 make a referral themselves. If they, during the  
10 course of their claims handling, determine that they  
11 think there's something questionable about the claim,  
12 they can make what we term a manual referral.  
13 Although it's electronic, we call it manual because it  
14 was actually a person who generated the referral.

15 Q As opposed to ICE?

16 A As opposed to ICE; that's right.

17 Q And as I understand it, because of problems  
18 with ICE, at least at the present time, are all of the  
19 referrals manual referrals to SIU?

20 A No, they are not. We have the ability to  
21 manually review the ICE results and develop filters  
22 and sorts to do -- what would have been done  
23 automatically, we have to sort of do manually; but we  
24 still get the same results.

25 Q So the ICE system isn't completely -- I

1 mean, you are able to use it in some capacity?

2 A That's correct.

3 Q And when did the problems start occurring?

4 A With the automated?

5 Q Yes.

6 A We had put in a new version of the software,  
7 and as a result, our ISD inadvertently broke some of  
8 the connections and so the results were coming back in  
9 error. We identified that very quickly and basically  
10 now we do the manual, what we call ICE mining process.

11 Q I'm just trying to get a sense as to when  
12 that occurred; when you started --

13 A It would have been 2008.

14 Q So sometime in 2008 you started using this  
15 ICE mining process?

16 A That's correct.

17 Q And at least from 2008 to the present, how  
18 you described it in terms of the referrals through  
19 ICE, that's how it's conducted, that a person looks at  
20 the material that's filtered through ICE and makes the  
21 referral manually as opposed to automated?

22 A That's correct. They create -- the filters  
23 that would have been done automatically are created  
24 manually, and we get the same basic results.

25 Q So it's Kendra Sullivan that supervises the

1 team of intake associates?

2 A No, she does not. She has no supervisory  
3 responsibility at all.

4 Q Who supervises the intake associates?

5 A It's usually an inside SIU supervisor.

6 Q Mr. College --

7 A Yes.

8 Q -- you identified as the SIU training. He's  
9 involved in SIU training; is that right?

10 A That is correct.

11 Q And he's also a manager?

12 A That's correct.

13 Q Could you tell me a little bit about the  
14 training that GEICO provides to the SIU investigators?

15 A We have an SIU academy that we hold every  
16 year. I think we've done it for the last five to six  
17 years. Primarily, 24 to about 28 people attend that.  
18 Normally, we try to get people who have been with the  
19 company -- within SIU less than one year. We also  
20 provide yearly training on specific topics of concern.

21 Q When an SIU investigator is hired, do they  
22 go through any specific training relative to SIU?

23 A Yes, they do. Primarily, it's on-the-job  
24 training. Each of the regions normally assigns a  
25 supervisor to that new person, who mentors them for

1       their first few weeks until they reach an acceptable  
2       standard of performance and then they are mentored by  
3       their supervisor from then on in regard to any issues  
4       that might crop up.

5           Q       And then at some point, presumably, if that  
6       investigator is new to the company, they'll attend the  
7       SIU academy?

8           A       That is correct.

9           Q       How long is the SIU academy training?

10          A       Right now, it's one week.

11          Q       And where does that occur?

12          A       Virginia Beach.

13          Q       And are there training materials that are  
14       provided to the investigators at this academy?

15          A       Yes, there are.

16          Q       How would I obtain -- if I had to ask GEICO  
17       for that information, how would I describe it?

18          A       The SIU academy curriculum.

19          Q       The SIU academy curriculum. Okay.

20                 So does Mr. College have a team of folks  
21       that do the training?

22          A       We pull on the investigators, the  
23       supervisors, and the managers to be primarily our  
24       instructors based on their expertise and experience.

25          Q       You identified a person as chief analyst.

1 A That is correct.

2 Q What was the last name?

3 A Khorn, K-H-O-R-N (sic).

4 Q And is that a mister?

5 A Yes, it is.

6 Q What does Mr. Khorn do as chief analyst?

7 A His primary responsibility -- although he  
8 has no supervisor responsibility, he mentors the  
9 individual SIU analysts that we have in each region.  
10 He helps review their work products. He is also  
11 responsible for ICE, for the operation of ICE.

12 Q So he has his hands full trying to get  
13 that --

14 A That's correct.

15 Q -- functioning again?

16 A Yes.

17 Q What is an SIU analyst?

18 A The SIU analyst is a criminal analyst, like  
19 you would find in law enforcement. They are  
20 responsible for taking data and making sense of it.  
21 They can do it from a tactical, which means you  
22 basically have a target that you think is committing  
23 insurance fraud, and you're trying to expand to find  
24 out exactly about that person.

25 They can also be used for operational, where

1 you have a problem, where you don't know who the  
2 players are. You can use it for strategic, where you  
3 anticipate or you forecast what your next big fraud  
4 problem is going to be.

5 Q And this position is separate from the  
6 investigator position?

7 A That is correct.

8 Q Are they paid salaries?

9 A Yes, they are. They are paid salary.

10 Q How many SIU analysts are there?

11 A At the present time, there are 12 -- I'm  
12 sorry; 13.

13 Q Do SIU analysts work with investigators on  
14 specific investigations?

15 A Yes, they do.

16 Q In other words, are they a resource that an  
17 investigator can call on for assistance?

18 A Absolutely. That's their primary  
19 responsibility.

20 Q And what would be -- could you give me an  
21 example of why an investigator would call on an SIU  
22 analyst?

23 A He's had a number of cases that appear to be  
24 staged accidents. He's trying to determine the nature  
25 and extent of the organization that's committing these

1 staged accidents, whether, in fact, it is an  
2 organization or not, and who are the players. Then  
3 they would call upon the analyst, who has a lot of  
4 technology to be able to bring a lot of information  
5 together and to make sense of it.

6 So they would use him to find out -- a lot  
7 of times in staged accidents, people are drivers in  
8 one circumstance and in another they are a passenger.  
9 So you're trying to make connections that these people  
10 are trying to hide.

11 Q So if the investigator has a hunch or a  
12 suspicion about a particular ring of fraud, they may  
13 reach out to the SIU analyst for further  
14 investigation?

15 A To help them with identifying the size and  
16 scope of the problem and who may be the primary, I  
17 guess, leaders of that organization.

18 Q In order to utilize an SIU analyst as a part  
19 of an investigator's investigation, does the  
20 investigator need approval from management, or can  
21 they just directly reach out to the analyst and say, I  
22 need your help?

23 A They can do that. But primarily we ask them  
24 to go through the supervisor, only to be able to  
25 manage the workload of the analyst.

1           Q     So primarily, they need the supervisor's  
2     okay or blessing before they can use an SIU analyst?

3           A     I don't know if I'd call it a blessing, but  
4     they need to involve their supervisor so they know  
5     they're making the request.

6           Q     Meaning what; what do you mean involve their  
7     supervisors?

8           A     They need to make their supervisor aware  
9     that they're making the request. The supervisor then  
10    works in conjunction with the investigator and the  
11    analyst and maybe the manager to determine the  
12    priorities for the analyst, because he's getting -- he  
13    or she is getting requests from a number of different  
14    sources. So someone has to identify which cases are  
15    most important, where the analyst's time would be best  
16    invested.

17          Q     Because there are a number of investigators  
18    that need the analyst's time and attention; right?

19          A     That's correct.

20          Q     And there only 12 (sic) of them?

21          A     That's correct, sir.

22          Q     Okay. You identified somebody and that name  
23    I didn't write down as you were identifying them. You  
24    talked about intelligence claim, one of your direct  
25    reports.

1           A     Anthony Broadnax is a background  
2 investigator.

3           Q     The intelligence claim was just me trying to  
4 jot down the ICE acronym. Okay.

5                 Who is the individual you just identified  
6 who's a background investigator?

7           A     Anthony Broadnax.

8           Q     And what is a background investigator?

9           A     One of the things we do is GEICO has an ERS  
10 program, emergency road service, sort of like AAA. As  
11 a result, we have towers, that if your car breaks  
12 down, we send a tower out. We do background  
13 investigations on those towers to ensure some level of  
14 comfort that when we send the tower out there, that  
15 they're legitimate, and for the safety of our  
16 customers.

17                 We also do backgrounds on our ARX shops,  
18 which are preferred body shops. So we ensure that  
19 they are also legitimate businesses. Anthony's  
20 responsibility is primarily the backgrounds on the ARX  
21 shops, but he also does ERS background investigations  
22 also.

23           Q     Is he the only background investigator the  
24 company has?

25           A     Yes, that does that. Well, we do have a

1 person who is assigned to our ERS operation who does  
2 the backgrounds, but they don't -- they are not --  
3 they do not report directly to SIU; but they do do  
4 backgrounds.

5 Q But Anthony's primary duty is to conduct  
6 these background investigations?

7 A That's correct.

8 Q Do you know if he's paid a salary?

9 A Yes, he is.

10 Q As opposed to an hourly employee?

11 A Yes, that's correct.

12 Q What's the power sports analyst position?

13 A Power sports is our section of GEICO that  
14 deals with everything pretty much other than  
15 commercial and vehicle. It would be boats -- I should  
16 say water crafts, motorcycles, RVs, those types of  
17 things, ATVs. They are all grouped under the title  
18 power sports. So the power sports analyst supports  
19 the power sports operation within GEICO, looking  
20 specifically for motorcycle fraud, RV fraud, those  
21 kinds of things.

22 Q How many power sports analysts are there?

23 A One.

24 Q Do investigators, similar to the other  
25 analysts that we've talked about, would they reach out

1 then to the power sports analysts if they needed  
2 assistance on a claim?

3 A Yes, they could.

4 Q Because the investigators investigate those  
5 claims -- suspicious claims relative to the power  
6 sports policies, too; right?

7 A That's correct. Also, each region has a  
8 subject matter expert in power sports assigned to the  
9 region, as an investigator who has some expertise in  
10 power sports. So they have that resource available to  
11 them also.

12 Q That's the SIU investigator you're talking  
13 about?

14 A That's correct.

15 Q You've been in the position of claims  
16 security/special investigations unit director since  
17 2000?

18 A June of 2000.

19 Q What did you do before that?

20 A Well, I was the operational training manager  
21 at GEICO. Prior to that, 25 years with the Maryland  
22 State Police.

23 Q With what?

24 A The Maryland State Police.

25 Q How long were you in the operational

1 training position?

2 A Six months.

3 Q At GEICO?

4 A Yes.

5 Q So that's where all of your experience is  
6 from testifying in courtrooms?

7 A Yes, sir.

8 Q You have some understanding of what GEICO  
9 insurance company's business purpose is?

10 MR. HEMMENDINGER: Objection. I think  
11 that's beyond the scope of a corporate designee's  
12 deposition.

13 MR. MORGAN: Are you directing him not to  
14 answer?

15 MR. HEMMENDINGER: I haven't said that, but  
16 I would say that his answer to that question would be  
17 his personal answer and not a corporate designee  
18 answer.

19 MR. MORGAN: That's fair.

20 A Could you rephrase it? I'm sorry.

21 BY MR. MORGAN:

22 Q I just asked you if you had some  
23 understanding as to GEICO's insurance company's  
24 business purpose.

25 A To provide insurance, auto insurance

1 primarily and, obviously, power sports-related  
2 insurance, for our customers.

3 Q Customers, meaning the policyholders?

4 A That's correct, sir.

5 Q How does the SIU department assist in  
6 providing insurance for GEICO's customers?

7 A We assist GEICO by -- and our customers by  
8 identifying those claims that are fraudulent in nature  
9 so that GEICO does not pay for fraudulent claims;  
10 hence, the cost of our insurance can be less for our  
11 customers.

12 Q And that's the benefit that the customers of  
13 GEICO get; right?

14 A Obviously, yes.

15 Q The more fraud is reduced within the  
16 company, the lower the premiums are going to be, at  
17 least in part; is that the theory?

18 A That's the theory, yes.

19 MR. HEMMENDINGER: Can we go off the record,  
20 for just a second?

21 MR. MORGAN: Sure.

22 (Off the record.)

23 (With Mr. Robinson present, the following  
24 proceedings were had.)

25 BY MR. MORGAN:

STEVEN F. RUTZEBECK 11/19/2010

1 Q I've placed before you what's been marked  
2 Exhibit 2.

3 MR. MORGAN: Eric, I provided a copy for you  
4 as well.

5 BY MR. MORGAN:

6 Q Do you recognize this document, sir?

7 A Yes, I do.

8 Q And it's entitled Affidavit of Steven  
9 Rutzebeck?

10 A Rutzebeck.

11 Q And if you turn to the seventh page, there's  
12 a signature. Is that your signature?

13 A Yes, it is.

14 Q You reviewed this before you signed it?

15 A Yes, sir.

16 Q Did you draft the document?

17 A No, I did not.

18 Q All right. Before we get to this, a couple  
19 more questions just generally about the SIU -- what do  
20 you call it, department, division, company?

21 A I guess we call it SIU. They don't really  
22 designate within GEICO departments.

23 Q Then I'll just say SIU. Are you aware of  
24 any payroll function the SIU has?

25 A Payroll function?

1 Q Yes.

2 A No, I don't believe so.

3 Q Are you aware of any advertising or  
4 marketing function the SIU has?

5 A No.

6 Q Any type of employee benefit function?

7 A No.

8 Q Any type of human resource function?

9 A No.

10 Q Any type of accounting or budgeting or  
11 auditing function?

12 A Do you mean for SIU?

13 Q For the company.

14 A For the company, no.

15 Q Does it have its own profit and loss  
16 responsibility?

17 A No.

18 Q Does it have any legal or regulatory  
19 compliance responsibility?

20 A We have certain responsibilities in state  
21 that require a fraud plan by the insurance commission.

22 Q Could you tell me about that?

23 A Certain states require a fraud plan be  
24 submitted, in some cases, annually and in some cases a  
25 year -- you have a set period. Our SIU managers

1 regionally are responsible for ensuring that they are  
2 drafted and submitted.

3 Q What states; do you know?

4 A Off the top of my head, there are a number  
5 of them that require it: New Jersey, New York,  
6 Delaware, Colorado. There's a number of them. That's  
7 just off the top of my head. Massachusetts.

8 Q A number of states on the East Coast.

9 A Yes. As well as, there are some across the  
10 country that require fraud plans.

11 Q Does SIU have any tax or finance function or  
12 responsibility?

13 A No.

14 Q Does it have any public government relations  
15 responsibility?

16 A No.

17 If you turn to Paragraph 2 of your  
18 affidavit -- it's actually on the first page -- the  
19 first sentence reads: GEICO employs approximately 250  
20 investigators in the exempt classifications of senior  
21 security investigator or lead security investigator.

22 Is that right?

23 A That is correct.

24 Q Where did you obtain that figure,  
25 approximately 250 investigators?

1 A We take it from current SIU staffing levels.

2 Q What is that? I mean, do you look at a  
3 computer screen that spits out the number of  
4 investigators?

5 A It would be the investigators that are  
6 currently logged into our case management system.

7 Q And those are investigators in every single  
8 state that GEICO does business and has investigators,  
9 other than California?

10 A They are not in every single state, but yes.

11 Q In the states that GEICO does business?

12 A That's correct.

13 Q Do you know how many investigators are in  
14 California?

15 A I believe -- off the top of my head, I would  
16 say about 24.

17 Q The next sentence of your affidavit reads:  
18 The 250 figure does not include California, where the  
19 investigators are non-exempt due to state law. Do you  
20 see that?

21 A That's correct.

22 Q Do you have any understanding of the reason  
23 why they are non-exempt due to state law?

24 A It was a company decision as far as I know.

25 Q Right. But do you have any understanding as

1 to why the company made that decision?

2 A No, I do not.

3 Q Were you involved in it?

4 A No, I was not.

5 Q Was it made while you were in the director  
6 position?

7 A Yes, it was.

8 Q When was it made?

9 A It was a number of years ago, but I don't  
10 know the exact year.

11 Q A number of years ago, you think?

12 A Yeah, a few years ago.

13 MR. HEMMENDINGER: Matt, this is getting  
14 into an area which has been designated for another  
15 witness.

16 MR. MORGAN: I understand that, but he made  
17 the representation in the affidavit that the  
18 investigators are non-exempt due to state law, so I'm  
19 just following up on that.

20 MR. HEMMENDINGER: Yes. It just was  
21 understood that this would not be a part of the  
22 corporate designation.

23 MR. MORGAN: That's fair.

24 BY MR. MORGAN:

25 Q So you think a few years ago?

1 A Yes.

2 Q If you turn to paragraph -- if you stay on  
3 the first page, focusing on Paragraph 3, the first  
4 sentence states: The primary duty of SIU  
5 investigators is to prevent fraud by investigating  
6 claims suspected of being fraudulent, educating GEICO  
7 adjusters about fraud and serving as liaison to law  
8 enforcement and regulatory agencies. Do you see that?

9 A Yes, sir.

10 Q And is this the primary duty of all 250  
11 investigators?

12 A That is correct.

13 Q They all have the same primary duty?

14 A Yes.

15 Q And then the next sentence reads: They  
16 spent the majority of their time on investigations.  
17 Do you see that?

18 A Yes, sir.

19 Q What do you mean by majority of their time?

20 A That their primary responsibility is doing  
21 investigations.

22 Q Something greater than 50 percent?

23 A Absolutely, yes. That includes drive time  
24 to and from their investigative activities.

25 Q Right. I mean, they work out of their

STEVEN F. RUTZEBECK 11/19/2010

1 homes?

2 A Not all of the 250 do.

3 Q Most do?

4 A The majority of them do, yes.

5 Q So they have administrative functions that  
6 they have to do at their homes; right?

7 A That's correct.

8 Q And then they work out in the field and  
9 conduct the investigations?

10 A Yes.

11 Q So there's drive time involved?

12 A Yes, sir.

13 Q I used the figure greater than 50 percent  
14 with regard to conducting -- spending time on  
15 investigations, and you agreed that it was greater  
16 than 50 percent.

17 A Yes.

18 Q Could you give me a ballpark estimate of the  
19 percentage of time investigators spend conducting  
20 investigations as their primary duty as opposed to  
21 something else?

22 A I would say probably -- in my opinion, it  
23 would be 90 percent of their time is spent on  
24 investigations.

25 Q You also said, as part of their primary

1 duty, educating GEICO adjusters about fraud.

2 A Yes. One of the -- obviously, they are the  
3 front line in regards to talking to our customers and  
4 meeting our customers. So educating the adjusters in  
5 regard to fraud issues is of primary importance, as  
6 they are a source of referrals also.

7 Q Is there any requirement with regard to --  
8 strike that.

9 Do investigators on occasion train  
10 adjusters?

11 A Yes.

12 Q On topics such as detecting fraud  
13 indicators?

14 A Yes.

15 Q Any other topics, or is that the primary  
16 one?

17 A No. They would train them on different  
18 scenarios that they may see in their claims, whether  
19 it's medical or, for an example, what to look for in  
20 staged accidents, those types of things. So it's not  
21 just specifically targeting indicators. It's  
22 explaining how the fraud occurs and what they should  
23 be looking for.

24 Q Is there any expectation that GEICO has  
25 relative to the amount of training an investigator

1 should do for an adjuster?

2 A No.

3 Q Generally speaking, the investigator spends  
4 about 90 percent of his or her time doing  
5 investigations. How much of their time do they spend  
6 educating adjusters?

7 A It would be small percentage, and it may  
8 vary by a particular investigator.

9 Q The same with regard to serving as liaison  
10 to law enforcement; a small percentage of their time?

11 A I would include that as part of their  
12 investigative responsibilities. So included in their  
13 actual activities of investigating would be liaisoning  
14 with law enforcement, the National Insurance Crime  
15 Bureau.

16 Q What do you mean serving as liaison to law  
17 enforcement and regulatory agencies?

18 A They work hand in hand. When criminal  
19 activity is uncovered, we provide that information to  
20 law enforcement and to regulatory agencies, and we  
21 provide any assistance they may need when they  
22 initiate investigations.

23 Q Is there some sort of standard or guideline  
24 that the investigators have to follow with regard to  
25 when referrals are made to law enforcement or

1 regulatory agencies?

2 A No. They have it within their power to make  
3 a referral to law enforcement based on their  
4 experience and knowledge.

5 Q So it's entirely up to them?

6 A That's correct.

7 Q Do they need prior approval before they  
8 refer a claim to law enforcement or a regulatory  
9 agency?

10 A No, they do not.

11 Q Are you aware of anything in any of the  
12 training materials or the manuals that govern what  
13 these investigators do on a day-to-day basis that  
14 talks about when to refer a claim to law enforcement  
15 or a regulatory agency?

16 A No, I do not.

17 Q We started talking about this a little bit  
18 in connection with our discussion about ICE, but the  
19 next sentence of Paragraph 3 talks about the steps  
20 involved in an investigation. Do you see that?

21 A Yes.

22 Q It starts on the first page and continues on  
23 to the next. It indicates that an investigation  
24 involves a number of steps, including receiving the  
25 assignment, making a plan of action, gathering

1 evidence and then writing a report on the results. Do  
2 you see that?

3 A Yes.

4 Q Are those sort of the four major categories  
5 of an investigation, if you will?

6 A What were the four that you mentioned?

7 Q Receiving the assignment being one; making a  
8 plan of action, two; gathering evidence, three;  
9 writing a report on the results.

10 A Yes.

11 Q Any other -- I mean, obviously, there are  
12 tasks and activities that are done within those four  
13 kind of categories, but any other category that's  
14 missing from this description of the investigation  
15 process?

16 A No.

17 Q With regard to receiving the assignment,  
18 have we already talked about the process by which an  
19 investigator receives a claim assignment?

20 A I believe we did.

21 Q And so as I understood it, after the claim  
22 goes through ICE and then is manually reviewed by an  
23 analyst, it's sent on to a manager or supervisor?

24 A Supervisor.

25 Q Supervisor. And the supervisor then

1       determines which investigator is going to be assigned  
2       the claim?

3           A      Not exactly.

4           Q      Tell me about that.

5           A      The referral can come from two sources, our  
6       automated system or from a manual system, which is the  
7       adjuster making the referral. That goes into a queue.  
8       Then the intake associate reviews that and then  
9       determines what resources should be applied to it. If  
10      they feel that an investigation should be initiated,  
11      that's sent to the supervisor and then the supervisor  
12      basically makes the assignment to the individual  
13      investigator.

14          Q      So what happens then? What's the first  
15      thing an investigator does after he or she receives an  
16      assignment?

17          A      Normally, what they would do would be review  
18      the claim and any attachments that came with that  
19      referral, public records, those types of things.  
20      Usually, it's sort of like prework to actually going  
21      out and doing any investigative activities.

22          Q      Is there a particular amount of time that  
23      the investigator has to perform the preliminary  
24      activities upon receipt of the assignment?

25          A      It's entirely up to them.

1 Q Excuse me?

2 A It's entirely up to them in regards to the  
3 circumstances within the claim as to what degree of  
4 prework they need before actually going out and  
5 investigating.

6 Q So they've reviewed the file, reviewed the  
7 attachments, done all of the preliminary workup. Then  
8 what happens?

9 A They basically set their plan of action  
10 together as to what they're going to do to investigate  
11 this particular case.

12 Q Do they have to comment that they received  
13 the file or received the assignment? Do they have to  
14 make a notation somewhere?

15 A It's within our case management system, so  
16 it's not -- I mean, to my knowledge, there's no  
17 requirement that they have to let their supervisor  
18 know that they received it. It's just electronically  
19 received. So it's --

20 Q That case management system, is it the  
21 acronym SICM?

22 A That's correct.

23 Q And is there either through the training  
24 materials that the investigators receive or the best  
25 practices or some type of guideline that's provided to

1 the investigator that explains sort of the  
2 investigation process that we're talking about?

3 A Yes. We have a reporting document, manual  
4 in regards to the writing of your reports.

5 Q What's that called?

6 A It would be the SIU report writing manual.

7 Q Is that different from the operational  
8 manual?

9 A Yes.

10 Q So there's a report writing manual?

11 A Yes.

12 Q And do you know the formal title or name for  
13 that manual?

14 A It would be report writing manual, as best I  
15 remember the exact title.

16 Q And then there's an SIU operational manual  
17 as well?

18 A That's correct.

19 Q Is that still in place today?

20 A Yes.

21 Q And what is the SIU operational manual?

22 A It's actually an administrative and  
23 operational manual. It's a document that outlines  
24 certain requirements -- I guess it would be  
25 requirements as part of your SIU -- the SIU function;

1 how to do pretext policies and how to do other things.  
2 So it's a general outline of how we go about doing our  
3 business.

4 Q Are there any other manuals that govern what  
5 the investigators do on a daily basis, other than the  
6 report writing manual and the SIU operational manual?

7 A No. Not that I, off the top of my head, can  
8 think of.

9 Q For the last several years, anyway, dating  
10 back to the '07-'08 time frame, are those the two  
11 manuals that were in place?

12 A That's correct.

13 Q No others that you're aware of?

14 A No, not that I'm aware of.

15 Q So we were talking about the investigative  
16 process, and I think where we left off was that the  
17 investigator, after doing the preliminary activities,  
18 sets their action plan.

19 A Yes, sir.

20 Q How is that done?

21 A They basically determine what activities  
22 they need to perform in order to investigate the  
23 particular circumstances of that particular case.

24 Q Do they speak to the claims adjuster while  
25 formulating the action plan?

STEVEN F. RUTZEBECK 11/19/2010

1           A     They may. That's our customer, so we ask  
2     them that they contact the claims adjuster to  
3     determine exactly what issues they believe are  
4     involved in the claim. But ultimately, once it gets  
5     to SIU, the SIU investigator is responsible for  
6     investigating from a fraud perspective that claim.

7           Q     I understand that, but is the policy of the  
8     company that the investigator try to contact the  
9     adjuster prior to drafting the action plan and  
10    submitting it in SICM?

11          A     No. There is no written that they have to.  
12         It is a recommended course of action, but there is  
13    no mandate.

14          Q     Best practices?

15          A     That's right.

16          Q     And the action plan is placed in SICM?

17          A     Yes.

18          Q     And then once the action plan is in place,  
19    the investigator starts his or her investigation?

20          A     Yes.

21          Q     And that can include a number of different  
22    things, such as interviewing witnesses?

23          A     Yes.

24          Q     Taking photographs?

25          A     Yes.

1 Q Reviewing property damage?

2 A Yes.

3 Q I know I'm missing a whole host of other  
4 activities, and we'll maybe get into some more of the  
5 specifics, but I'm just trying to understand generally  
6 the process right now.

7 Then at some point -- well, during the  
8 investigation process, are the investigators required  
9 to provide update reports through SICM?

10 A Yes, they are.

11 Q How often are they required to do that?

12 A We currently have a 10-, 20-day, 20-day  
13 report --

14 (Reporter requests clarification.)

15 A 10, 20, 20 reporting cycle, which means  
16 there's a 10 day initial report and 20 days --  
17 supplements 20 days after until the case is closed.

18 BY MR. MORGAN:

19 Q Is there an average life cycle to a claim,  
20 generally speaking?

21 A We usually average a little over 30 days to  
22 investigate.

23 Q Is there a goal that GEICO establishes with  
24 regard to ending a -- beginning and ending a claim in  
25 terms of time?

1 A No. We don't have any standard for that.

2 We do look at average case life, but no particular  
3 time for any particular case.

4 Q Right. The average case life is part of the  
5 performance appraisal at the end of the year?

6 A That's correct.

7 Q So the 10-day initial report is something  
8 different than the initial action plan?

9 A Yes, it is.

10 Q And these reports are submitted into SICM?

11 A That's correct.

12 Q And outside of the reports -- let's say, for  
13 instance, an investigator interviews a policyholder on  
14 Day 3 and then takes photographs on Day 7, does the  
15 investigator in that scenario have to document the  
16 interview after Day 3 in SICM and the photographs  
17 after Day 7 in SICM and then create an interim report  
18 at Day 10?

19 A It is recommended that when the  
20 investigative activity occurs, that you document it in  
21 SICM. There is no mandated requirement to do so. The  
22 only requirement is the 10-day initial report.

23 Q There was some discussion in your affidavit  
24 about -- I think in Paragraph 11 -- when the  
25 investigation is complete, the investigator completes

STEVEN F. RUTZEBECK 11/19/2010

Page 59

1 his report on his computer, the investigator's  
2 supervisor reads the completed report on his computer  
3 and grades it for purposes of evaluating the quality  
4 of the investigator's work.

5 A That's correct, on closure.

6 Q Do the supervisors review interim reports  
7 before the reports are submitted in SICM?

8 A Yes. No. Some of them do; some of them  
9 don't, because there are self-approvals.

10 (Reporter requests clarification.)

11 A Some have self-approval ability.

12 BY MR. MORGAN:

13 Q So some of the investigators have their  
14 interim reports reviewed by supervisors before it's  
15 submitted through SICM, other's don't?

16 A That is correct.

17 Q And those that don't, you said have  
18 self-approval?

19 A Authority, yes.

20 Q Meaning what?

21 A Meaning that they can approve their reports  
22 without supervisory approval.

23 Q How does one get self-approval authority?

24 A By having a demonstrated ability to write  
25 the reports in an acceptable fashion.

1 Q But those who maintain self-approval  
2 authority still must have their final reports reviewed  
3 and graded by the supervisor before it's submitted in  
4 SICM?

5 A No.

6 Q They can just submit their final reports  
7 without a review or grading?

8 A That's correct.

9 Q Do you know how many investigators have  
10 self-approval authority?

11 A Of the field people, I'm going to say -- I'm  
12 not exactly sure, because that's a varying thing.

13 Q Sure.

14 A But I would think at the present time there  
15 are probably about 40 to 50 that have that authority  
16 that's been granted by their managers.

17 Q Out of the 250 or so?

18 A Yes.

19 Q For those who don't have the self-approval  
20 authority, can you describe for me just sort of the  
21 logistics of how an interim report is approved by a  
22 supervisor?

23 A You would submit your report; the supervisor  
24 would get that in his pending; and the supervisor  
25 would review it and approve it. That's pretty much --

1 that interim report has been approved.

2 Q What's the purpose of having the supervisors  
3 review and grade -- well, do the supervisors grade  
4 interim reports?

5 A No, they do not.

6 Q They just grade the final reports?

7 A That's correct.

8 Q What's the purpose of having the supervisors  
9 review the interim reports before they are submitted  
10 in SICM?

11 A Primarily to ensure that they are -- they  
12 are complying with format requirements and also to be  
13 able to allow the supervisor to provide any input he  
14 may feel appropriate because of his expertise.

15 Q Okay. So the investigation part of the  
16 process is done, all of the interviews were taken, all  
17 of the photos were taken, the evidence was observed,  
18 and the investigator determines his or her  
19 investigation is over. What happens then?

20 A They will close the report. The report will  
21 be forwarded to a supervisor for final approval, if  
22 they don't have self-approval capability. Their  
23 supervisor will at that time basically, most of the  
24 time, score the overall report on a 1-to-5 scale and  
25 the report is approved.

STEVEN F. RUTZEBECK 11/19/2010

Page 62

1 Q In Paragraph 11 on Page 4 -- are you there?

2 A Uh-huh.

3 Q About halfway down, you say: Supervisors  
4 rarely make changes in the reports.

5 A They do, rarely.

6 Q How do you know that?

7 A Because we look at the -- when we do the  
8 performance reviews and stuff, we have the ability to  
9 look at the notes that are provided by the  
10 supervisors.

11 Q What does rare mean?

12 A It means that it occurs more often with new  
13 SIU employees that are learning the process and very  
14 rarely with those that have the experience and know  
15 how to write it. The more experienced the particular  
16 investigator, the less review is actually done by the  
17 supervisor.

18 Q Are the grades maintained?

19 A Yes, they are.

20 Q Where are they maintained?

21 A Within the case management system.

22 Q Is that something different than the SICM  
23 system, or is it in SICM?

24 A It's SICM.

25 Q So for a particular file -- say my claim,

1 Matt Morgan's claim, is being investigated, so it goes  
2 through the SICM system, if I were to pull up my file  
3 on the SICM system, could I see the grade the  
4 investigator got on the interim report or on the final  
5 report?

6 A If the supervisor wanted to see what score  
7 he had given them or if someone who has access to the  
8 system, is --

9 Q Right. Is the grade in the system?

10 A The grade is maintained in the system, yes.

11 Q So if I looked at the system on a particular  
12 file, I could tell what Mr. Calderon did in terms of  
13 grades on his final report?

14 A If he was provided a score, it would be  
15 maintained.

16 Q If you don't have self-approval authority,  
17 aren't you supposed to get a grade for every final  
18 report?

19 A The supervisor could decide not to give a  
20 grade or grade particularly one. That's entirely up  
21 to them. The ability to grade exists.

22 Q Who decides when the investigation has  
23 ended?

24 A The investigator.

25 Q So an investigator can end it without any

1 approval by a supervisor or a claims adjuster?

2 A That's correct.

3 Q What if the claims adjuster wanted  
4 additional investigation done?

5 A We do occasionally reopen cases if there's  
6 some valid reason to do so.

7 Q So the investigator decides that his or her  
8 investigation is done, prepares the final report and  
9 sends it off to the supervisor, and the supervisor, if  
10 the investigator doesn't have self-approval authority,  
11 reviews it, grades it and then it's submitted into the  
12 SICM system?

13 A Yes.

14 Q Anything else done from an investigator's  
15 standpoint after that final report is submitted?

16 A No. Unless additional information becomes  
17 available, and that case may, in fact, be reopened.

18 Q And what would prompt reopening of a file?

19 A Well, the claims handlers obviously are  
20 continuing the handling of the claim, so additional  
21 information, certain documents might become available  
22 that had not been available at the time of the  
23 original investigation which may warrant the case  
24 being reopened.

25 Q Is there some guideline or best practices

1       that the investigators are asked to follow relative to  
2       speaking with the claims adjuster assigned to the file  
3       before the investigator prepares his or her final  
4       report?

5           A       We recommend constant and ongoing  
6       communication with the adjuster who has that file. We  
7       ask that from Day 1 to the closing, that that  
8       communication -- independent of the formal reports  
9       that are required to be had, that the investigator  
10      maintain an open line of communication with the file  
11      owner, the adjuster.

12          Q       And the adjuster has access to SICM, too;  
13       right?

14          A       No, they do not.

15          Q       They don't?

16          A       No.

17          Q       So they can't see what's documented in terms  
18       of investigative activities?

19          A       The only thing they can see is the final  
20      report, unless the individual investigator provides  
21      them with the interval reports.

22                   (Reporter requests clarification.)

23      BY MR. MORGAN:

24          Q       Interim reports?

25          A       Interim reports.

1 Q Why is that? Do you know why claims  
2 adjusters don't have access to the SICM system?

3 A We've just always maintained a sense of  
4 security and confidentiality in regard to the  
5 investigation.

6 Q Right. Do you know the reason for it?

7 A Just that the claims adjuster -- we want  
8 them to be -- to basically be able to make their  
9 claims decision independent of things what we're  
10 working on until we have come up with a final  
11 conclusion to the case.

12 Q And the adjuster decides whether a claim  
13 that's being investigated gets paid or denied; right?

14 A They have the final authority.

15 Q Investigators don't make that decision, do  
16 they?

17 A No, they do not.

18 Q Paragraph 12 of your affidavit reads:  
19 Unlike some other insurance companies, GEICO does not  
20 require its SIU investigators to refrain from  
21 expressing their opinions concerning the existence of  
22 fraud when discussing cases with adjusters and writing  
23 their reports. Do you see that?

24 A Yes, sir.

25 Q What insurance companies are you referring

1 to?

2 A All I know is what we do in our insurance  
3 company. I'm sure others have certain rules that  
4 refrain --

5 Q Well, do you know of any?

6 A Not specifically.

7 Q So you're not certain what other insurance  
8 companies do relative to expressing opinions, are you?

9 A I mean, I've read some things where they  
10 have, in fact, said that they were more specific about  
11 expressing their opinions and those kinds of things,  
12 but we don't have anything like that in ours.

13 Q What have you read?

14 A I read some cases where there has been --  
15 where the insurance company advised that they had  
16 their investigators refrain from having any opinion in  
17 their findings.

18 Q What cases?

19 A Some case studies in regards to dealing with  
20 exempt and non-exempt issues.

21 Q Right. And I'm asking you what cases.

22 A I can't remember off the top of my head.

23 Q What insurance companies?

24 A I cannot remember the exact name of the  
25 insurance companies.

1 Q Is this a recent review of the case studies  
2 that you're talking about?

3 A Yes.

4 Q How recent?

5 A It would be a couple of weeks ago, and then  
6 I've done it in the past also.

7 Q How many case studies of insurance companies  
8 did you review?

9 A Two or three.

10 Q So two or three different insurance  
11 companies?

12 MR. HEMMENDINGER: I don't want to step all  
13 over the deposition, but I do want to clarify  
14 something. It wasn't case studies; he was looking at  
15 court cases.

16 MR. MORGAN: That's fair.

17 MR. HEMMENDINGER: Decisions.

18 A That's absolutely right. I wasn't actually  
19 looking at the case, per se. I was looking at the  
20 reviews.

21 BY MR. MORGAN:

22 Q The case law?

23 MR. HEMMENDINGER: No. You were looking at  
24 the decision issued by the court.

25 BY MR. MORGAN:

1 Q And what I want to know is what other  
2 insurance companies. You don't know?

3 A I don't remember exactly; no, I do not.

4 Q So it's your testimony that investigators  
5 can express their opinions in final written reports?

6 A Yes. The only thing is we ask them to  
7 actually draw conclusions from the evidence. We don't  
8 ask them just to collect evidence. We ask them to  
9 make sense of the evidence, to draw conclusions from  
10 that evidence.

11 Q And where is that written, in the operating  
12 (sic) manual?

13 A I don't know exactly how it's written there  
14 or not, but that's our course of action.

15 Q Are you aware of anything in writing that  
16 says that investigators at GEICO can express their  
17 opinions in the reports they issue?

18 A In those exact words, no.

19 Q Can investigators use -- or come to the  
20 conclusion that fraud exists on a particular claim in  
21 the report they submit?

22 A Yes.

23 Q They can use that word "fraud"?

24 A They can say that, in fact, this was a  
25 fraudulent activity, yes. If they have the evidence

1 to support that conclusion.

2 Q Is that in writing anywhere in any of the  
3 SIU manuals or policies?

4 A Not specifically, no; to my knowledge.

5 Q Do you know who Bob DeMartino is?

6 A Yes, I do.

7 Q Mr. DeMartino was a supervisor and an  
8 investigator; right?

9 A Yes, he was.

10 Q How long was he an investigator; do you  
11 know?

12 A I know he was an investigator for  
13 approximately a year before he left. He was a  
14 supervisor before that.

15 Q If you could, turn back to Page 3, please.  
16 The first sentence of Paragraph 9 reads: If a claim  
17 of disability is suspected to be fraudulent, the  
18 investigator may recommend what a private security  
19 firm conduct videotape surveillance. Do you see that?

20 A Yes.

21 Q Who do the investigators make the  
22 recommendation to?

23 A To claims.

24 Q The adjuster assigned to the file?

25 A Assigned to the file, yes.

1 Q To make the final decision?

2 A Yes. Because there's expense associated  
3 with that.

4 Q Can investigators incur any expense in the  
5 course of their investigation absent preapproval from  
6 a supervisor or a claims adjuster?

7 A Yes, they can.

8 Q What can they incur --

9 A Court costs --

10 Q Let me finish my question.

11 A I apologize. I thought you were done.

12 Q I'm sure you know what I'm going to ask.

13 A No. I just thought you were done.

14 Q What expenses can be incurred by an  
15 investigator without preapproval from a claims  
16 adjuster or a supervisor during the course of an  
17 investigation?

18 A Costs associated with getting documents from  
19 the court, expenses associated with the investigation  
20 themselves, which would be parking issues, things like  
21 that.

22 Q Parking in a parking ramp downtown to get  
23 copies of a police report?

24 A Or meet someone.

25 Q The investigator doesn't need to call the

1 supervisor first?

2 A No, they do not.

3 Q Anything else, other than those expenses?

4 A There could be a number of them that I can't  
5 think of off the top of my head, but they have the  
6 flexibility to be able to incur expenses associated  
7 with their investigation in a routine -- what would be  
8 considered a routine investigative activity.

9 Q Right. I'm just trying to get a sense of  
10 what those expenses are. We talked about certain  
11 ones. Can you think of any others, without  
12 preapproval?

13 A Without preapproval?

14 Q Yes.

15 A I am trying to think of an example where  
16 they may have an expense. Right off the top of my  
17 head, I can't think of an example.

18 Q If you look at Paragraph 7 of your  
19 affidavit, that first sentence reads: If a  
20 policyholder, or occupant covered by the  
21 policyholder's policy, does not consent to an  
22 interview, the investigator asks staff counsel to  
23 schedule an EUO taken at a court reporter's office; is  
24 that right?

25 A That is correct.

1 Q Then you say: Starting in 2008, GEICO has  
2 permitted SIU investigators to take examinations  
3 without a GEICO attorney. Do you see that?

4 A Yes, sir.

5 Q Are examinations under oath still taken by  
6 attorneys on occasion?

7 A Yes, they are.

8 Q There are just certain investigators that  
9 take EUOs and others that don't?

10 A We have a process to certify our SIU  
11 investigators to be able to take EUOs.

12 Q Is an EUO like an interview?

13 A It is a more formalized process.

14 Q Formalized in the sense that it's under  
15 oath?

16 A That's correct.

17 Q Any other difference?

18 A There are rules of -- I mean, there are  
19 exhibits and things like that, which is more  
20 formalized. But other than that, it's a formalized  
21 face-to-face interview.

22 Q Right. As you say in Paragraph 7, if the  
23 policyholder doesn't consent or voluntarily agree to  
24 submit to an interview, then an EUO may be taken;  
25 right?

1           A     One of the requirements of submitting a  
2     claim is that you have to submit to an EUO if we feel  
3     it appropriate to find the facts associated with that  
4     claim.

5           Q     In terms of what is sought in an EUO versus  
6     an interview, is there any real difference?

7           A     No. We're still trying to find the facts or  
8     the evidence.

9           Q     The investigators are trying to find the  
10    facts relative to the particular claim they're  
11    assigned to investigate?

12          A     That's correct.

13          Q     In Paragraph 8, about halfway down, you have  
14    a sentence that reads: Obtaining a withdrawal, with  
15    or without a confession, requires judgment on the part  
16    of the investigator. Do you see that?

17          A     Yes.

18          Q     What do you mean by that?

19          A     The investigator needs to determine if a  
20    withdrawal is appropriate based on the circumstances  
21    and when and if to offer that opportunity to withdraw  
22    and whether to accept a withdrawal.

23          Q     Why wouldn't the investigator not (sic)  
24    accept a withdrawal?

25          A     It may be a case where the fraud is so

1      horrendous that we may not want the claim to be  
2      withdrawn; we literally would prefer that we attempt  
3      to prosecute that person for committing that fraud.

4                    MR. HEMMENDINGER: Can we go off the record?

5                    (Off the record.)

6      BY MR. MORGAN:

7                    Q       Are there any words or phrases that  
8      investigators are precluded from using or writing in  
9      the written reports?

10                  A       No specific words that I know of.

11                  Q       Is there some policy that you're aware of  
12     that describes the reason why supervisors review the  
13     interim and final reports for investigators?

14                  A       No. I think it was just a stated -- it was  
15     just a verbal. I don't believe there's any, per se,  
16     written documentation that addresses that.

17                  Q       Was it a decision you made as the director  
18     of the unit?

19                  A       Yeah. Actually, we did it initially,  
20     primarily, because when I came to GEICO there were  
21     seven different case management systems that didn't  
22     talk to each other and the reports all looked  
23     different, just the style of the reports. So you  
24     could have ones that were basically in our diary;  
25     there were others in Word documents.

1                   So to get to a point where we had some -- at  
2 least when you looked at a report there would be some  
3 standard of professionalism in regards to how the  
4 report looked, we instituted the review process. And  
5 since then we've lessened -- we've started to remove  
6 that and mandate it.

7                   (Reporter requests clarification.)

8                 A     To remove that -- mandate it to 100 percent  
9 supervisory review.

10 BY MR. MORGAN:

11               Q     You started to remove it, did you say?

12               A     Yes. Now we have self-approvals.

13               Q     Do you know what a bad faith insurance claim  
14 is?

15               A     Yes.

16               Q     What is it?

17               A     It's where the insurance company did  
18 something inappropriate and as a result was held  
19 responsible for not handling that claim in good faith.

20               Q     Does that concept affect the way you  
21 understand the investigators write their written  
22 reports?

23               A     I'm not quite sure I understand your  
24 question.

25               Q     Let me ask you a different one. That was a

1 poorly phrased question.

2                   Are investigators trained on what is known  
3                   as bad faith claims?

4                 A     Yes. We do give training on bad faith.

5                 Q     What's the reason for giving training on bad  
6                   faith?

7                 A     Primarily, we don't want the investigators  
8                   to do anything unethical in regards to investigating  
9                   the claim. We don't want them to use unacceptable  
10                  investigative techniques, trickery, those kinds of  
11                  things in investigating the claim. So we talk to them  
12                  about being ethical in regards to how they go about  
13                  doing their investigation.

14                Q     As part of the training, are they taught how  
15                  to write reports?

16                A     Yes. We have report writing training that  
17                  we offer.

18                Q     Why is it important that the investigators  
19                  get trained on how to write reports?

20                A     Because we have a number of required formats  
21                  for us to be able to use our technology to the  
22                  fullest.

23                Q     Can you explain what you mean by that?

24                A     For example, one of the things that we  
25                  require is the capitalization of the primary

1 principals in the claim they are investigating. The  
2 reason we do that is because we have technology called  
3 Memex that is a Boolean logic search.

4 (Reporter requests clarification.)

5 A It's a Boolean logic software, where we can  
6 search and see if we've ever had this particular  
7 individual or group before in an investigation. When  
8 you do the search, it brings back a number -- it could  
9 bring five or six reports where this particular person  
10 or business was named, and your ability to be able to  
11 scan those reports is greatly enhanced with the  
12 capitalization.

13 So you can look through the reports, see if  
14 it has any practicality to the case you're working  
15 now, and either use it or not use it. Otherwise, if  
16 it's not capitalized, it takes a lot longer to review  
17 and to be able to use the technology effectively, in  
18 an effective manner.

19 BY MR. MORGAN:

20 Q In Paragraph 5 on Page 2 of your affidavit,  
21 the last sentence reads: The investigator may also  
22 recommend a forensic examination of the vehicle by an  
23 expert.

24 A That's correct.

25 Q Who is the recommendation made to?

1           A     To the file owner or the adjuster. The  
2     adjuster who is responsible for that claim.

3           Q     And then the adjuster decides whether to  
4     follow that recommendation or not?

5           A     Yes; correct. Because of the expense  
6     associated with the expert.

7           Q     So in terms of the expenses that are  
8     incurred on a file that's referred to SIU, the claims  
9     adjuster decides what expenses are incurred and what  
10    aren't; is that fair?

11          A     Not exactly.

12          Q     How is that --

13          A     Some of the major expenses that would be as  
14    a result of that investigation, such as surveillance,  
15    such as retaining an expert, a forensic person, those  
16    are -- approval from the claims handler is our normal  
17    course of action.

18          Q     And so --

19          A     Other expenses associated with the  
20    investigation that are of a more routine nature are  
21    determined as part of the investigation.

22          Q     Copying costs, parking?

23          A     All of those kinds of things; yes.

24          Q     We may have said this: The adjuster decides  
25    whether to follow the recommendation of the

1 investigator regarding an EUO; is that right?

2 A No, not necessarily. An EUO could be  
3 something that the investigator could approve or  
4 initiate independent of the adjuster. Normally that  
5 would be a codcision, but I could think of an  
6 occasion where the SIU investigator could take that  
7 initiative and set that up.

8 Q What's the best practice for the  
9 investigator, to get the approval of the adjuster  
10 first?

11 A Yeah. Obviously, it's a joint effort. So  
12 obviously, informing the adjuster that an EUO is  
13 appropriate and this would be a good case for an EUO  
14 to be performed, you would hope they would agree on  
15 that course of action.

16 Q In Paragraph 6, you talk about the central  
17 part of most investigations is interviewing the  
18 policyholders, their third-party claimants, and  
19 witnesses; do you see that?

20 A Yes, sir.

21 Q You say the investigator locates the  
22 individuals and interviews them in person; do you see  
23 that?

24 A That's correct.

25 Q Is that what the investigators are

1       instructed or trained to do?

2           A     What we do is have face-to-face interviews  
3       as one of the things that makes a field  
4       investigator -- why we have them. As a result, where  
5       appropriate, we expect the investigator as part of the  
6       investigation to do the face-to-face interviews  
7       because as a result of the face-to-face interviews,  
8       you get to see their body language and other things  
9       that a number of our investigators are very good at.

10          Q     What's the expectation with regard to the  
11       number of hours an investigator works per week?

12          A     There is no set number. They're a salaried  
13       employee, and there is no standard of exactly what  
14       hours they are supposed to work a day.

15          Q     Is there some understanding when they get  
16       hired as to the number of hours they are going to be  
17       working?

18          A     To my knowledge, they know that their  
19       workday is kind of flexible in regards to when they do  
20       their activities and that they -- that we'll try to  
21       have a manageable workload for them.

22          Q     Do they have to record a certain number of  
23       hours per week on some type of time card or report?

24          A     Yes. We do have a -- we call it ETAS,  
25       E-T-A-S.

1 Q What does that stand for?

2 A I have no idea.

3 Q Who would know?

4 MR. HEMMENDINGER: I know. It's Electronic  
5 Time and Attendance System.

6 MR. MORGAN: There you go.

7 THE WITNESS: Thank you, sir.

8 BY MR. MORGAN:

9 Q And they have to report a certain number of  
10 hours per week?

11 A That's correct. They do -- for the purposes  
12 of ETAS, there is a 7.75-hour designation, but we have  
13 never said that's their workday.

14 Q But that's what they report every week;  
15 right?

16 A That's what the ETAS standard is; yes.

17 Q 7.75 hours a day?

18 A That's correct.

19 Q So even if an investigator is working 45  
20 hours in a week, they're going to report 37.75 (sic)?

21 A I don't know if that's the case, but that's  
22 the default in the system.

23 Q The 7.75 a day?

24 A (Witness nods.)

25 Q Is that right?

1 A That's correct.

2 Q Do you have some understanding of whether  
3 investigators work over 40 hours in workweek on  
4 occasion?

5 A I would assume some do and some probably  
6 work less, because we manage more to workload than we  
7 do to --

8 (Reporter requests clarification.)

9 A To workload versus a set hourly performance.

10 BY MR. MORGAN:

11 Q Is there any other way, other than the 7.75  
12 reporting through ETAS, that the company tracks the  
13 hours of the investigators?

14 A No. We don't have another system.

15 Q So if an investigator was working 42 hours  
16 in a particular week, but reported 7.75 hours through  
17 ETAS each day, the ETAS system wouldn't accurately  
18 reflect the number of hours the investigator worked?

19 A Not unless he --

20 Q Is that right?

21 A Unless he put it into the ETAS system.

22 Q What are they trained to do relative to  
23 entering their time into --

24 A I don't know exactly what the regions have  
25 them do, but that's -- we've always -- you do your

1 ETAS and you fill it out. I would assume that they  
2 should put the hours that they actually are  
3 performing.

4 Q Really, you think that's what they should be  
5 doing?

6 A I don't know. I don't know exactly what  
7 they're doing. They may be using the 7.75 hours; they  
8 may be putting actually what they work. I don't have  
9 access to their individual ETAS.

10 Q You don't know?

11 A I don't know.

12 Q We talked about a number of people with whom  
13 the investigator deals on a day-to-day or weekly basis  
14 during the course of an investigation. We talked  
15 about claims adjusters; right?

16 A (Witness nods.)

17 Q You have to answer out loud.

18 A Yes.

19 Q Supervisors?

20 A Yes.

21 Q The analysts?

22 A On a day-to-day basis?

23 Q Or weekly, just in the course of an  
24 investigation.

25 A Yes.

1 Q Adjusters, supervisors; right?

2 A Yes.

3 Q Analysts, perhaps?

4 A Perhaps.

5 Q Are there any -- and law enforcement or  
6 regulatory agency officials; right?

7 A Yes.

8 Q Any other employee type of GEICO with whom  
9 an investigator would work during the course of an  
10 investigation?

11 A It might be including the AD adjusters as  
12 adjusters, the automobile damage person who determines  
13 the -- who looks at the damage to the vehicles and  
14 those types of thing. So there may be an opportunity  
15 where other people are assisting with the handling of  
16 the claim beyond the primary adjuster who's assigned  
17 to that case and there may be interaction with them.

18 Q In the case of an auto damage adjuster's  
19 involvement, is there an auto damage adjuster and an  
20 additional claims adjuster assigned to a claim?

21 A In most every case, yes.

22 Q How about underwriting? Would the  
23 investigators have the occasion to deal with  
24 underwriting?

25 A They do make underwriting referrals. So if

1       in the course of their investigation they uncover an  
2 underwriting issue, they have the ability through our  
3 case management system to make a direct referral to --

4           Q     Is there -- I'm sorry.

5           A     To make a direct referral to underwriting.

6           Q     Is there a particular type of experience or  
7 background GEICO is looking for in an investigator?  
8 In other words, are you looking for people who have  
9 claims adjusting experience in the insurance industry  
10 or law enforcement experience, such as yourself, or  
11 both or neither?

12          A     The best is to have someone who has both  
13 claims experience and some kind of investigative  
14 experience also, but you don't normally get a person  
15 who has both of those skills. Normally, you get one  
16 or the other. We like to have a blend in SIU.

17               We feel that having people with claims  
18 experience, coupled with some investigators who have  
19 law enforcement experience, gives you the opportunity  
20 to leverage both of those skills and to -- you know,  
21 we can train to whichever one, the area where they  
22 need additional expertise or knowledge.

23          Q     Okay. Any other positions at GEICO that  
24 would be involved in the investigative process that we  
25 haven't talked about or who an investigator would

1 reach out or consult with, an employee at GEICO,  
2 during the course of an investigation that we haven't  
3 already talked about?

4 A There may be someone who has a particular  
5 expertise in a particular issue, where they may reach  
6 out in regards to assistance, but primarily you  
7 touched on most of the ones they would be dealing  
8 with.

9 Q Outside of that rarity, any others that we  
10 haven't talked about at all?

11 A Not that I can think of.

12 Q If you could turn to Page 6, please. In  
13 Paragraph 18, and we talked a little bit about this,  
14 your first sentence reads: Because they are  
15 classified as exempt, GEICO does not keep track of the  
16 SIU investigators' hours.

17 A I do not keep track of their specific hours.

18 Q GEICO doesn't?

19 A No. The hours in a day, what they work, we  
20 do not keep track of the exact hours.

21 Q So why is it a requirement to have them  
22 report the 7.75 hours a day through the ETAS system?

23 A I believe it's just an accounting process.  
24 That's my belief.

25 Q It's not for purposes of tracking actual

1 work hours, is it?

2 A Not to my knowledge. That would be my  
3 personal opinion.

4 Q But you're the head of SIU?

5 A Right, but it's not -- that is from an HR  
6 issue. It has nothing -- our investigators understand  
7 that our workday is not an 8:30-to-4:30 type of job.

8 Q And the next sentence reads: The  
9 investigators work out of their homes.

10 A Yes. The majority of those 250  
11 investigators.

12 Q So a majority of them do. Others work out  
13 of where?

14 A Out of the offices, the regional offices.  
15 We call them -- they're inside investigators. They do  
16 desktop investigations.

17 Q Is that a different position than what Mr.  
18 Calderon did for --

19 A He was a field investigator. Inside  
20 investigators use -- work desktop investigations.  
21 Field investigators do field activities, face-to-face,  
22 those types of things.

23 Q You don't have to page back if you don't  
24 want to, but on the first page you identify about 250  
25 investigators in the exempt classification.

1 A Correct.

2 Q Outside of California?

3 A Yes.

4 Q And you identify them as senior security  
5 investigators or lead security investigators?

6 A Yes, sir.

7 Q Do those desktop investigators fall into one  
8 of those two categories?

9 A Yes, they do.

10 Q And they are paid salaries, too?

11 A Yes, they are.

12 Q And they don't do field work?

13 A No. Well, they could occasionally. If the  
14 field work was close to a particular office, they  
15 might have an opportunity to do field work; yes.

16 Q Are they bound by the same policies and  
17 procedures relative to conducting investigations as  
18 the field investigator?

19 A Yes, they are.

20 Q How many -- I guess you used the phrase --  
21 is it desktop investigator?

22 A Desktop investigators.

23 Q How many desktop investigators are there out  
24 of the 250?

25 A There are probably -- roughly, in the area

1 of 60 or 70 of those are inside investigators, of  
2 those 250.

3 Q So you say they are supplied with a company  
4 car, computer and telephone; right?

5 A Yes, sir.

6 Q All of the investigators?

7 A All of the field people. The others have  
8 that available to them in the office.

9 Q They receive their assignments  
10 electronically?

11 A Yes, they do.

12 Q All of them do?

13 A All of them do, yes.

14 Q Their workday consists of desk work, using  
15 their computers and field work?

16 A That's correct.

17 Q And that's for all of the investigators,  
18 potentially?

19 A Right. Well, the field work wouldn't be  
20 done by the inside people, primarily. It would be  
21 occasional field work.

22 Q And then it says: As discussed above, the  
23 field work includes locating witnesses, interviewing  
24 witnesses, taking examinations under oath, clinic  
25 visits, taking photographs, meeting with law

1 enforcement and driving. Do you see that?

2 A Yes.

3 Q And that's true with regard to all of the  
4 investigators that do field work?

5 A That's correct, yes.

6 Q Would you say their duties are similar to  
7 one another?

8 A One investigator from another investigator?

9 Q Yes.

10 A Yes. In most cases they are similar.

11 Q We've talked about this topic a little bit  
12 in terms of how an investigator's work is reviewed by  
13 GEICO. One way is through the file reviews that are  
14 conducted; right?

15 A Yes.

16 Q And we talked about the file reviews; right?

17 A Yes.

18 Q Another way is by reviewing -- for those who  
19 don't have self-approval authority, review of the  
20 interim and final reports; right?

21 A Yes.

22 Q Are there any other ways in which an  
23 investigator's work is reviewed by GEICO?

24 A I know the supervisors on occasion do file  
25 reviews of the investigators under their

1 responsibility. They also do ride-alongs.

2 Q Is there any sort of requirement or at least  
3 best practices relative to informal file reviews being  
4 conducted by supervisors of their investigators?

5 A They are recommended, but there is no  
6 standard number or anything like that.

7 Q Do supervisors get performance appraisals?

8 A Yes, they do.

9 Q On an annual basis just like the  
10 investigators?

11 A Yes, they do.

12 Q Do any of their review -- is any of their --  
13 strike that.

14 How about with regard to ride-alongs? Is  
15 there a requirement or best practices with regard to  
16 supervisors doing ride-alongs with their  
17 investigators?

18 A There are no formal standards. It's just a  
19 recommended practice.

20 Q How many is recommended that they do?

21 A There is no specific number, just that they  
22 occur, that ride-alongs are good with the associate  
23 under your responsibility.

24 Q Who at GEICO do you believe would have the  
25 most knowledge with regard to how many hours an

1 investigator works in a given week?

2 A Probably the supervisor that has that  
3 particular investigator would be the best person to be  
4 able to determine how many hours for that particular  
5 person.

6 Q Do you think the supervisor would have a  
7 better idea than the actual investigator?

8 A No. I would say the investigator would have  
9 the best knowledge of how much time he's put into his  
10 investigations. The next person would be the  
11 supervisor.

12 Q We mentioned -- when I was asking you  
13 questions about reviewing the investigators' work, you  
14 talked about more informal file reviews that are  
15 conducted by the supervisors, like ride-alongs; right?

16 A Right.

17 Q Anything else?

18 A No. I think that's pretty much what's  
19 reviewed.

20 Q Have you heard of the phrase "SIU ultimate  
21 graphs"?

22 A Yes.

23 Q What's an SIU ultimate graph?

24 A They are a number of metrics that we put out  
25 monthly from my unit in regards to tracking the

1 performance of the SIU operations.

2 Q So what metrics specifically are there?

3 A We provide feedback on impact ratio, which  
4 is the number of cases where you had some degree of  
5 influence in regard -- you had findings that  
6 ultimately affected the claims decision. We have  
7 training numbers.

8 We have -- I'm trying to remember all of  
9 them. We have one for law enforcement referrals.  
10 There's only about five or six in total that we put  
11 out on a regular basis. There's performance review  
12 results.

13 Q Are they done -- are the graphs broken down  
14 by region or --

15 A By region, yes. The lowest denominator is  
16 region.

17 Q Are you familiar with a CALG study that was  
18 conducted in 2009?

19 A CALG?

20 Q CALG.

21 A Yes, I am.

22 Q What was the CALG study?

23 A They were looking at workload issues for the  
24 SIU investigator.

25 Q Meaning what?

1           A     Meaning they were looking to see what -- to  
2     try to establish an appropriate workload for our SIU  
3     investigators.

4           Q     Was there some determination of the  
5     approximate number of hours investigators were working  
6     as part of the study?

7           A     Yes. I believe there was.

8           Q     Did you have some understanding of what that  
9     number was?

10          A     The number that I saw, and I can't speak to  
11     it specifically, was 8.5 hours, I believe.

12          Q     Per day?

13          A     Per day, on average.

14          Q     How many days a week?

15          A     I don't know the answer to that. The only  
16     number I saw was the 8.5.

17          Q     Have you seen -- is the CALG study a written  
18     study?

19          A     I've seen a PowerPoint that highlights some  
20     of the results, but I have not personally seen the  
21     data or the analysis that was done by them.

22          Q     When you they conducted the study, who is  
23     they?

24          A     The CALG process review team that did this.

25          Q     Are they -- is this team, are they GEICO

1 employees?

2 A Yes, they are. Competitive Advantage  
3 Leadership Group.

4 Q Is there a process underway to eliminate the  
5 SICM system?

6 A Yes. We're looking at a new case management  
7 system.

8 Q Why?

9 A Because our case management system is  
10 incredibly inefficient. It takes a lot of IT  
11 resources for us to make enhancements, and we want to  
12 go to a system where we have the ability to make minor  
13 changes without involving IT resources.

14 Q Was that a decision that was made following  
15 the CALG study?

16 A Yes. One of the recommendations in the CALG  
17 study is to have a more efficient system.

18 Q Do you recall any of the other  
19 recommendations from the CALG study?

20 A I don't think that -- I'm trying to think  
21 what the exact recommendations were. I don't know if  
22 there were really a whole lot of recommendations. We  
23 are looking at trying to establish some kind of  
24 process in regards to caseload.

25 Q Have you heard about complaints of

1      investigators working too much; they are overworked or  
2      too many cases?

3            A      I've heard some say that they are very busy.

4            Q      Is that what prompted, at least in part, the  
5      CALG study, based on your knowledge?

6            A      No. It was more a direct response to the  
7      claims AVPs and RVPs --

8                        (Reporter requests clarification.)

9            A      Assistant vice presidents and the regional  
10     vice presidents wanting to know what an appropriate  
11     workload was for their people. And our prior  
12     caseloads were based on less than scientific results.

13    BY MR. MORGAN:

14            Q      Have you ever heard any complaints by  
15     investigators that they say something along the lines  
16     of: Hey, the investigators in California are paid by  
17     the hour; they get overtime and we don't; there's a  
18     problem?

19            A      No. I've never actually heard that  
20     complaint.

21            Q      How often do you have interaction with  
22     investigators?

23            A      I wouldn't say almost daily, but it's pretty  
24     close to that.

25            Q      Really?

1 A Yes.

2 Q Why is that?

3 A They call for whatever reason, for  
4 assistance or a problem. I talk to, obviously,  
5 managers to a greater degree than I do to the  
6 individual investigators. I have a very open-door  
7 policy, so they may call about a training issue or  
8 whatever.

9 And when I'm out in the regions, I make it a  
10 point to meet with the individual investigators as  
11 best I can. Since they work from home, they don't  
12 quite get the contact that other in-house people do.

13 Q Are there different levels of claims  
14 adjusters at GEICO?

15 A Yes, there are.

16 Q Do you know what those levels are?

17 A Primarily that's the CSR, a customer service  
18 representative, which is the adjuster who handles  
19 claims where there's really not a dispute as to the  
20 facts of the accident, there's no injuries. It's more  
21 simplistic. Then we have --

22 Q Is that the lowest level?

23 A That's the -- well, there are call telephone  
24 reporters; but they don't do anything other than take  
25 the information, and there's not a lot of them. But

1 CSR is primarily our lowest level.

2 Q Okay.

3 A We have TA1s and TA2s, telephone adjusters.

4 As the claim becomes more complicated, there's a  
5 dispute about who's at fault, there are injuries  
6 involved, they are more experienced. And as it  
7 escalates, the top level is a CU, which is a  
8 continuing unit. They do the more complex claims.

9 Q So which adjuster levels would investigators  
10 be working with?

11 A It could be -- any one of those could  
12 provide referrals to SIU.

13 Q Even the CSRs?

14 A Yes. Even the CSRs could, because they are  
15 taking the first call. It could be something that's a  
16 single accident but circumstances are suspect, like  
17 very short policy inception. You've only had the  
18 policy for three days and all of a sudden you have an  
19 accident.

20 Q Are CSRs paid hourly or salary; do you know?

21 A I do not know the answer to that question.

22 Q How about TA1s?

23 A I do not know the answer to that question.

24 Q You don't know with regard to TA2s and CUs  
25 either, do you?

1           A     No. I don't know anything about their  
2 salary, how their salary is handled.

3           Q     Is there a difference between a claims  
4 examiner and a claims adjuster at GEICO?

5           A     No. Just two different terms for the  
6 same...

7           Q     Okay. I just heard it used.

8           A     Yes. It's used --

9           Q     Interchangeably?

10          A     Interchangeably. It's the same person.

11          Q     If you look at Deposition Exhibit 1 on the  
12 second page, Item No. 4, it lists security  
13 investigators' job duties and responsibilities and the  
14 manner of performing them since July of 2007. We've  
15 talked about their duties and responsibilities today,  
16 haven't we?

17          A     Yes, we have.

18          Q     Have there been any changes, at least  
19 significant in the sense that they just completely  
20 eliminated a duty or a responsibility or added  
21 something, in the last three or four years that you  
22 can think of?

23          A     No. Pretty much no major changes.

24          Q     Since July of 2007, investigators outside of  
25 California have been paid a salary; right?

1 A That's correct.

2 Q Classified as exempt for purposes of  
3 compensation?

4 A That is correct.

5 Q Item No. 8, which you've been identified to  
6 talk about, says describe any changes in defendants'  
7 manner of --

8 A Exhibit 1?

9 Q Yes, Page 2. It talks about any changes in  
10 defendants' manner of compensating its security  
11 investigators during the last 10 years. Do you see  
12 that?

13 A Yes, I do.

14 Q You've been there about 10 years as the  
15 director; right?

16 A Yes, sir.

17 Q Are you aware of any changes?

18 A No. No major substantial changes.

19 Q How about with regard to the folks in  
20 California?

21 A They were designated as being non-exempt a  
22 couple of years ago.

23 Q Right. So there's been that --

24 A There's been that change, but other than  
25 that there really hasn't been any that I know of.

1                   MR. HEMMENDINGER: So we have an accurate  
2 record -- time flies -- he said a couple years ago,  
3 but it was in 2001.

4                   MR. MORGAN: Okay. He said --

5                   MR. HEMMENDINGER: I know. I don't want to  
6 muddle --

7                   MR. MORGAN: I appreciate it.

8                   MR. HEMMENDINGER: They were converted to  
9 non-exempt in 2001 in California.

10                  MR. MORGAN: Okay.

11 BY MR. MORGAN:

12 Q        Other than that change?

13 A        Not to my knowledge, no.

14 Q        With regard to Item No. 12, we wanted to  
15 know about the defendants' method of recording hours  
16 worked by security investigators. We've talked about  
17 that; right?

18 A        Yes.

19 Q        And any record maintenance system pertaining  
20 to time since July 2007. Other than the ETAS system,  
21 has there been any other system that you're aware of?

22 A        No, sir.

23 Q        Item No. 20, we wanted to know about any  
24 auditing systems, guidelines, best practices, or other  
25 procedures which security investigators are required

1 to follow, including but not limited to how such  
2 systems are used in the normal course of business by  
3 investigators and the reasons for such use.

4 We talked about the report writing manual;  
5 right?

6 A Yes, sir.

7 Q And we talked about the SIU operational  
8 manual?

9 A Operations -- it's the A&O manual, the  
10 Administrative & Operational manual.

11 Q Right. Any other manuals or guidelines that  
12 you're aware of; best practices?

13 A No. I can't think of anything.

14 Q How about with regard to the closed file  
15 reviews that are conducted?

16 A By our performance review?

17 Q That's right. There are some sort of  
18 guidelines or criteria by which the investigators are  
19 judged.

20 A That is correct.

21 Q What's the name of that?

22 A We have that as a standard operating  
23 procedure that's done every year that outlines what we  
24 are going to be reviewing. That has changed very  
25 minor over the years, so that you can -- so there's

1 really not a whole lot of changes.

2 Q And we talked about that earlier on today?

3 A Yeah.

4 Q The thing that you and two others are part  
5 of that get updated on an annual basis?

6 A That is correct.

7 Q Any other guidelines or policies by which  
8 investigators are judged?

9 A No, not to my knowledge.

10 Q Item No. 21, the manner in which claims are  
11 assigned to security investigators from July '07 to  
12 the present. We've talked about that today; right?

13 A That's correct.

14 Q Any changes at all since '07 that you're  
15 aware of?

16 A Absolutely none, other than the ICE  
17 referrals. The automated process is broken, so we had  
18 to go to the mining process. But other than that, no  
19 changes.

20 Q How about with regard to Item No. 22, the  
21 manner in which claims assigned to security  
22 investigators are closed from July '07 to the present?

23 A Other than we have opened up allowing for  
24 self-approval.

25 Q When did that take place? You may have

1 mentioned it, but I just don't recall.

2 A I'm going to say early 2009, if not late  
3 2008.

4 Q Was that a decision you made?

5 A That's a decision -- yes. I made the  
6 ultimate decision, but it was one in consultation with  
7 the SIU managers.

8 Q How about Item No. 23, production quotas?

9 Are there any production quotas that exist?

10 A Not to my knowledge. There's no quotas.

11 Are you -- I guess I need you to describe what you  
12 mean by quota.

13 Q Just the number of files that should be  
14 closed in a particular month.

15 A There are no particular corporate standards  
16 for that. There may be a regional goal set, but  
17 there's no corporate goal for setting.

18 Q Earlier you had talked about -- when we were  
19 talking about the performance appraisals, the average  
20 number of closed files, I thought, was one of the  
21 criteria.

22 A That's correct.

23 Q And I think what you said is what you look  
24 for is the same number of open files get closed.

25 A That would be the ideal situation, where

1 you're ending would be literally zero. You would not  
2 be from month to month carrying over a pending  
3 caseload; but obviously, that fluctuates.

4 Q So if an investigator was assigned 10 files  
5 in the month of November, the hope or expectation is  
6 that all 10 get closed in that month as well?

7 A The ideal circumstance is they had the  
8 ability to close them within 10 days.

9 Q That obviously doesn't happen?

10 (Reporter requests clarification.)

11 A I'm sorry. The 10 for the month.

12 BY MR. MORGAN:

13 Q That obviously doesn't happen?

14 A It probably does in some circumstances, and  
15 in some circumstances it doesn't. It's all predicated  
16 on the complexity of the cases you're working.

17 Q And when the claims are assigned; right?

18 A And when the cases are assigned.

19 MR. MORGAN: Why don't we take a few-minute  
20 break and go off the record?

21 (Off the record.)

22 (Exhibit 3 was marked for identification and  
23 was attached to the deposition transcript.)

24 BY MR. MORGAN:

25 Q I'm showing you what's been marked as

1      Exhibit 3. I'll represent to you that this was  
2      enclosed as an exhibit in connection with a motion  
3      that we have before the court. It was enclosed as an  
4      exhibit by GEICO. The first page reads: SIU Case  
5      Management System User's Manual. Do you see that?

6            A      Yes, sir.

7            Q      Is this something different than what we've  
8      talked about today in terms of manuals and policies  
9      and such?

10          A      It's part of the reporting document that I  
11      had talked to you about earlier.

12          Q      It's part of the report writing manual?

13          A      Yes.

14          Q      The user's manual?

15          A      Yes.

16          Q      Is the user's manual --

17          A      No. I believe there are two parts. This is  
18      how to use the system and then there's one for how to  
19      write your reports. These are actually sort of a  
20      combination; they work interchangeably because you  
21      write your reports in the system.

22          Q      So if you look the third page, but there's a  
23      24 on the bottom --

24          A      Yes.

25          Q      -- at the very top, it says: It is

1 imperative that if you include any conclusions or  
2 recommendations, that they be totally substantiated by  
3 the information you listed in the body of the report.  
4 Do you see that?

5 A Yes, sir.

6 Q What's meant by that?

7 A It means that your speculations and things  
8 like that are not appropriate, that your conclusions  
9 and your recommendations need to be based on the facts  
10 and evidence that allows to you make those  
11 conclusions.

12 Q So the facts that are gathered during the  
13 course of the investigation have to be laid out in the  
14 report and have to substantiate or justify any  
15 conclusion or recommendation made?

16 A Yes. There has to be some evidence or facts  
17 that substantiate your conclusion and your opinion.

18 Q So is this Page 24 part of the user's manual  
19 or the report writing manual or --

20 A I believe it's probably part of the report  
21 writing manual.

22 Q Do you know?

23 MR. HEMMENDINGER: It's part of whatever it  
24 is on the front page.

25 A Yeah. It's probably part of this document,

1 the SIU Case Management System manual.

2 BY MR. MORGAN:

3 Q The user's manual?

4 A Yes.

5 Q I'm just having difficulty, and I want to  
6 make sure I understand. Is there a separate report  
7 writing manual?

8 A There's a format report manual.

9 Q Is that part of the user's manual?

10 A It should be, yes.

11 Q I only got a couple of pages as part of the  
12 exhibit that was included. This is all I have right  
13 now.

14 A Okay.

15 MR. MORGAN: Would you mark this as an  
16 exhibit, please?

17 (Exhibit 4 was marked for identification and  
18 was attached to the deposition transcript.)

19 BY MR. MORGAN:

20 Q The court reporter is handing you what's  
21 been marked as Exhibit 4.

22 MR. HEMMENDINGER: This would be outside his  
23 designation. I'm sure he doesn't have anything to do  
24 with this.

25 MR. MORGAN: Do you want me to renoteice him

1 so I can ask him about it personally?

2 MR. HEMMENDINGER: No. You can ask him  
3 personally.

4 BY MR. MORGAN:

5 Q Do you recognize Exhibit 4?

6 A Yes. I've seen it before.

7 Q Did you have any input with regard to what  
8 is written here?

9 A No, I did not.

10 Q Do you know the reason why it was prepared?

11 A I guess it's in response --

12 MR. HEMMENDINGER: Don't guess. If you  
13 know.

14 A I don't know.

15 BY MR. MORGAN:

16 Q Did you have any communication with anyone  
17 internally at GEICO outside of counsel for GEICO about  
18 this memo?

19 A No. It was generated without my  
20 involvement.

21 Q Did you review it before it was distributed?

22 A No, I did not.

23 Q So you didn't even have any involvement in  
24 terms of what's written on this document?

25 A None at all.

1 Q Do you know if anyone from SIU did?

2 A To my knowledge, no.

3 Q Do you see at the top it says, to SIU  
4 investigators?

5 A Yes.

6 Q Whom do you understand that to mean?

7 A Our SIU -- the investigators within SIU.

8 Q All of the 250 investigators outside of  
9 California?

10 A That would be my belief.

11 Q I understand you didn't write it, but in  
12 terms of what you understand that term to mean, that's  
13 your belief?

14 A That's my belief, yes.

15 Q Nancy Pierce, is she whom you report to? Is  
16 that who you identified?

17 A Yes. She's vice president of claims home  
18 office.

19 Q Did you review any materials or documents to  
20 prepare yourself for the deposition today?

21 A I looked over some of our reports, some of  
22 our documents; but other than that, no.

23 Q What reports and documents did you look  
24 over?

25 A I looked over our SICM manual. Other than

1       that, I didn't really look at a whole lot of  
2 documents.

3           Q     When you say the SICM manual, are you  
4 referring to the one we --

5           A     Yes, the partial --

6           Q     Let me finish my question.

7           A     Okay.

8           Q     When you refer to the SICM manual, are you  
9 referring to what Exhibit 3 is, at least in part?

10          A     Yes, sir.

11          Q     And that's all you looked at to prepare  
12 yourself?

13          A     Yeah. I didn't really look at anything  
14 else, no.

15          Q     You said, I didn't really.

16          A     No. I didn't look at anything else that I  
17 can think of.

18          Q     Other than counsel, either in-house or  
19 anyone from Mr. Hemmendinger's office, have you talked  
20 to anybody about this lawsuit?

21          A     No. Other than my boss.

22          Q     Ms. Pierce?

23          A     Ms. Pierce.

24          Q     What did you talk with her about?

25          A     I just provided her with the names of the

1 people who were part of the class action.

2 Q Did she ask for them?

3 A Yes, she did.

4 Q Do you know why she asked for them?

5 A No, I do not.

6 Q That was the extent of your conversation  
7 with Ms. Pierce about the lawsuit?

8 A Yes, it was.

9 Q You haven't had any conversations outside of  
10 counsel with anyone else?

11 A No. I talked to Michael College as our SIU  
12 and operations manager.

13 Q When did you talk with him?

14 A A couple -- on a routine basis since the  
15 suit began.

16 Q Right, but I'm talking about specific  
17 conversations you had about the lawsuit.

18 A About the lawsuit? No.

19 Q Did you speak with him about the lawsuit?

20 A Yeah. He's familiar with it. I made him  
21 aware of the lawsuit.

22 Q What do you recall from those discussions?

23 A We've just been providing information to our  
24 counsel.

25 Q Have you talked with anyone else?

1 A No, not really.

2 Q What does not really mean?

3 A No, I have not. I make a point of not  
4 talking about it.

5 Q Why is that?

6 A Because I don't know enough about the  
7 circumstances to adequately describe the issues and  
8 things, so basically it's better not to say anything.

9 Q Have you ever been asked by anyone  
10 associated with the human resources department to  
11 describe the duties and responsibilities of an  
12 investigator?

13 A Other than counsel?

14 Q I'm not talking about lawyers. I'm talking  
15 about anyone from the human resources department.

16 A No.

17 Q And I'm not talking about since the lawsuit  
18 started. I'm talking about in the last 10 years, have  
19 you ever --

20 A For specific job titles, we assist them in  
21 regards to the job responsibilities for the job, for  
22 the particular jobs; but other than that, no.

23 Q I just want to make sure I'm clear and that  
24 you understand my question. During your time as  
25 director, have you ever been asked by human resources

1 to either describe in writing or to comment and  
2 explain the day-to-day duties or responsibilities of  
3 an investigator?

4 A No, I have not.

5 Q Are you aware of anyone from your -- from  
6 SIU who's been asked to do that by --

7 A Not to my knowledge, other than what I said  
8 on the individual job codes, describing what those  
9 responsibilities and duties are.

10 Q On the individual job codes, did you say?

11 A Yeah. Job duties, yes.

12 Q When did you do that?

13 A We do that on a regular basis. In my  
14 tenure, it's occurred at least three or four times.  
15 We reviewed the job responsibilities to ensure they  
16 are current and appropriate.

17 Q And how does that work? What do you have to  
18 do to get that done?

19 A We take all of the different job codes, we  
20 review them to see if they are still applicable, if  
21 the job has changed in any manner, shape or form, and  
22 we will provide that to HR. In most cases, the  
23 changes are minor, if any at all, except on new --  
24 when we establish a new position. And then,  
25 obviously, for new positions, the job code -- the job

1 description is completely redone -- created.

2 Q What's the difference, if any, between a  
3 senior security investigator and a lead security  
4 investigator?

5 A A lead is a more experienced person. He's a  
6 higher grade, one grade higher than a senior  
7 investigator. He does primarily -- it would be large  
8 groups. He serves in lieu of the supervisor if the  
9 supervisor is off, sort of a supervisor-in-training  
10 type position.

11 Q And when you say one grade higher, you're  
12 talking about in terms of compensation?

13 A That's correct.

14 Q The more experienced the investigator, the  
15 more likely they are a lead investigator?

16 A That's correct.

17 Q They still conduct investigations as their  
18 primary duty?

19 A Most of them do, yes.

20 Q Are there lead investigators that don't  
21 conduct investigations as their main duty?

22 A I can't think of any. They are given other  
23 responsibilities, but they still investigate. I would  
24 still say that the primary part of their job is still  
25 doing investigations; they are just more complex

1 investigations.

2 MR. MORGAN: I don't have anything else for  
3 you, sir. Thanks for showing up today and answering  
4 some of the questions that I did have. Mr.  
5 Hemmendinger might have questions.

6 MR. HEMMENDINGER: Actually, if you don't  
7 mind sticking around for a second, I need to clarify  
8 with the witness and I may have something to put on  
9 the record. I'm not sure. Just bear with me for five  
10 minutes.

11 MR. MORGAN: We'll go off the record.

12 (Off the record.)

13 MR. HEMMENDINGER: We're not going to do  
14 anything. I'm not going to ask any questions, so  
15 we're done.

16 We better do reading and signing.

17 THE REPORTER: Can I get your orders?

18 MR. HEMMENDINGER: Full, mini, and E-tran.

19 (Signature having not been waived, the  
20 deposition of STEVEN F. RUTZEBECK was concluded at  
21 12:12 p.m.)

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25

STEVEN F. RUTZEBECK 11/19/2010

Page 118

1                   ACKNOWLEDGEMENT OF DEPONENT

2                   I, STEVEN F. RUTZEBECK, do hereby  
3                   acknowledge I have read and examined the foregoing  
4                   pages of testimony, and the same is a true, correct,  
5                   and complete transcription of the testimony given by  
6                   me, and any changes and/or corrections, if any, appear  
7                   in the attached errata sheet signed by me.

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Date

STEVEN F. RUTZEBECK

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1 CERTIFICATE OF SHORTHAND REPORTER-NOTARY PUBLIC

2 I, Linda H. Cole, the officer before whom  
3 the foregoing deposition was taken, do hereby certify  
4 that the foregoing transcript is a true and correct  
5 record of the testimony given; that said testimony was  
6 taken by me stenographically and thereafter reduced to  
7 typewriting under my supervision; and that I am  
8 neither counsel for, related to, nor employed by any  
9 of the parties to this case and have no interest,  
10 financial or otherwise, in its outcome.

11 IN WITNESS WHEREOF, I have hereunto set my  
12 hand and affixed my notarial seal this 24th day of  
13 November, 2010.

14 My commission expires July 19, 2014

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19 NOTARY PUBLIC IN AND FOR

20 STATE OF MARYLAND

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ERRATA SHEET

2 IN RE: CALDERON V. GEICO GENERAL INSURANCE COMPANY,  
3 ET AL.

4 RETURNED BY: STEVEN F. RUTZEBECK

5 Page No. Line No. Correction and Reason

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25 Date Signature

1                   ERRATA SHEET cont'd

2   IN RE:       CALDERON V. GEICO GENERAL INSURANCE COMPANY,  
3                   ET AL.

4   RETURNED BY:   STEVEN F. RUTZEBECK

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25   Date                   Signature

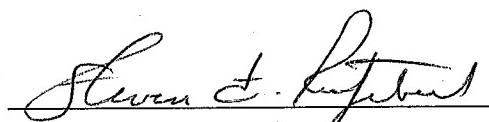
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10                 12/20/10



11 Date

STEVEN F. RUTZEBECK

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ERRATA SHEET

2 IN RE: CALDERON V. GEICO GENERAL INSURANCE COMPANY,  
3 ET AL.

4 RETURNED BY: STEVEN F. RUTZEBECK

5 Page No. Line No. Correction and Reason

6 17 7 MYERS (SPELLING)

7 17 19 WATIERS (SPELLING)

8 32 3 KROHN (SPELLING)

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25 Date

Signature

12/20/10

*Steven F. Rutzebeck*